



Diálogos Sur-Sur

South-South Dialogue on Religion and
Sexual and Reproductive Health and Rights:
Status Reports on Argentina, Colombia, Chile and Peru

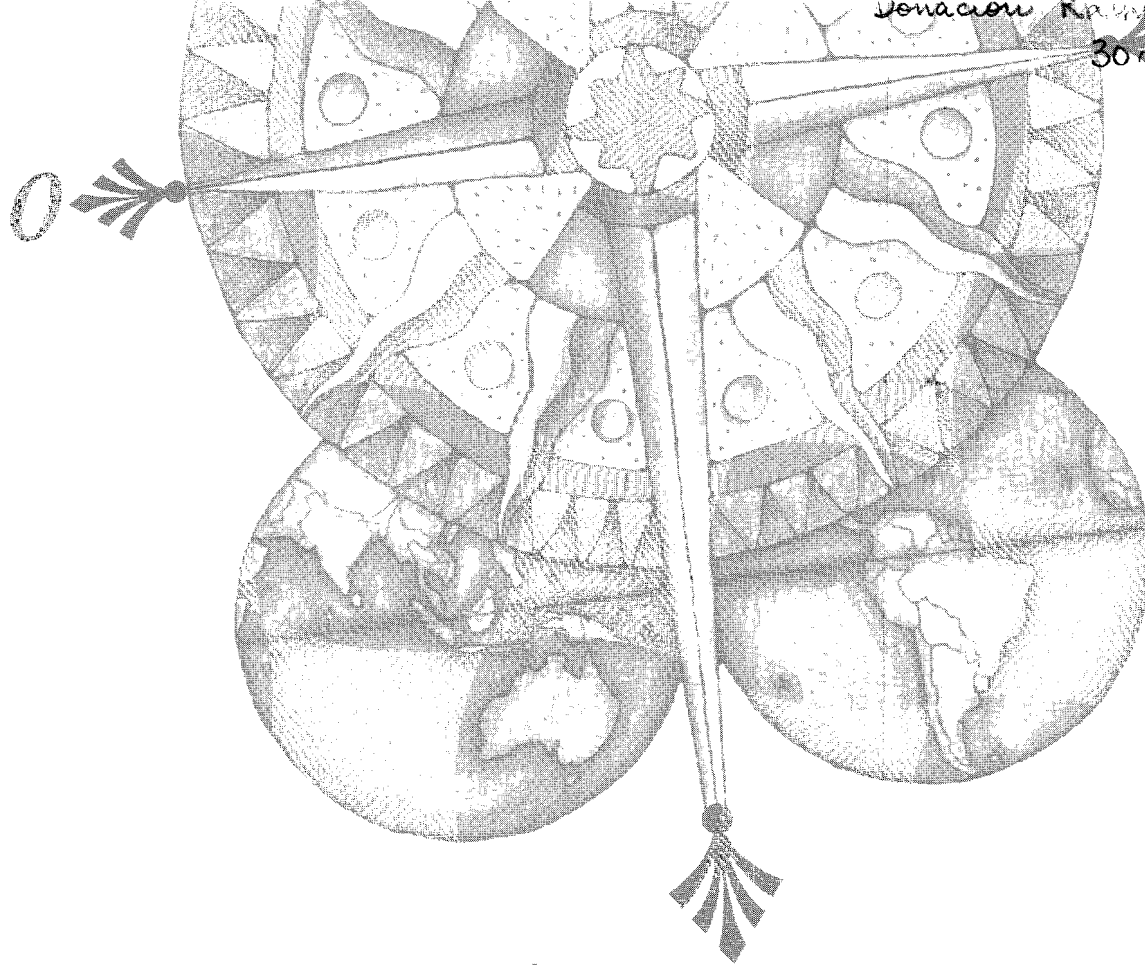
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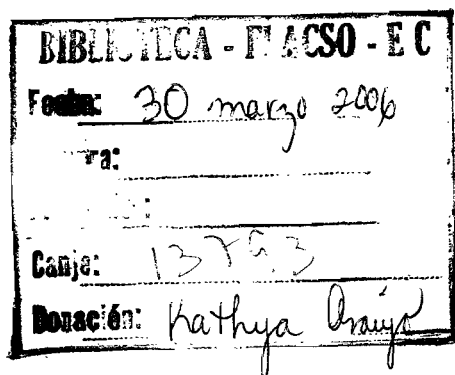
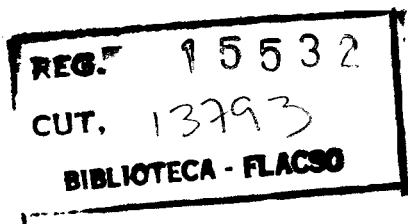
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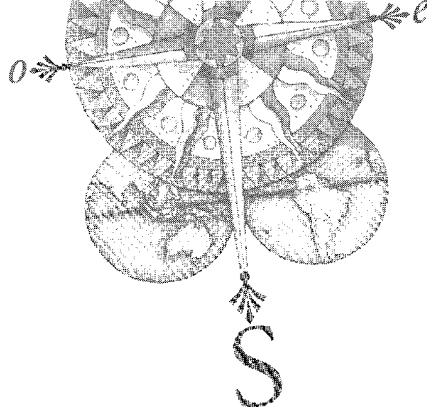
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INTRODUCTION

Encouraging dialogue is a permanent challenge of contemporary democratic society -even more so when the issues at stake are sexualities, reproduction and rights in notoriously conservative societies such as the four reviewed here.

This publication is the result of more than a year's planning and exchanges leading up to the South-South Dialogue between Indonesia and Argentina, Colombia, Chile and Peru on Religion and Sexual and Reproductive Health and Rights. This event, held in Santiago, Chile in June 23-27, 2003, was coordinated by the Gender and Society Studies Program of the University Academy of Christian Humanism of Chile.

The dialogue focused on gender, equity and social justice. Issues reviewed included fundamentalism, religion and State, abortion, HIV/AIDS, sex education, fertility regulation and sexual and gender violence.

Reports from Argentina, Colombia, Chile and Peru are presented. These provide a valuable inventory of the sexual and reproductive rights debates,

opinions and arguments prevailing in a range of political contexts vis-à-vis dominant religious groups.

These reports help expose the pervasive role and influence of conservative groups, notably the Catholic Church, in issues of sexuality, reproduction and rights. Each country report is complemented by a summary of strides, setbacks and challenges going forward.

These reports review key elements of the theoretical debate on fundamentalism, conservatism, secularization, globalization, and religion. They also describe the relevant political contexts, including a history of Church-State relations.

In addition, they identify the strategies of key actors -i.e., churches, social movements, political parties, governments- in the fields of abortion, fertility regulation, sex education, HIV/AIDS, and sexual and gender violence.

Latin American history shows that communication, collaboration and development -both economic

and cultural- tend to travel in a north-south direction. This initiative provided a highly unique opportunity for very distinct cultures to engage each other in thought and debate.

A key finding is that countries in the Southern Hemisphere have more in common with each other than with the Northern Hemisphere. Indeed, this initiative helped establish a basis for permanent exchanges and links between non-governmental and academic organizations and networks in Indonesia, Argentina, Chile, Colombia and Peru. The ultimate goal is a fuller discussion of cross-cutting issues on the influence and relevance of religion for gender discrimination and sexual and reproductive health and rights.

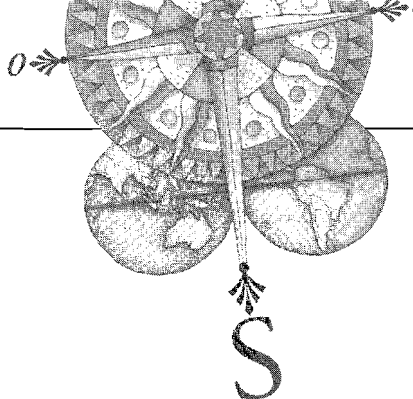
This process helped show that, despite our many differences, sexuality and reproduction worldwide face a similar conservative and fundamentalist onslaught.

The need to keep moving forward on these issues is a key challenge which requires concerned groups to reinforce their arguments and advocacy work and consolidate joint dialogue, research and advocacy initiatives, both within and among countries.

This publication offers a basis to identify the links between religion, gender discrimination, and sexual health and rights.

We gratefully acknowledge the Ford Foundation for its support and assistance, as well as all who helped make this initiative a success.

Claudia Dides
Project Coordinator



PUBLIC DEBATE ON SEXUAL AND REPRODUCTIVE RIGHTS IN LATIN AMERICA: INTRODUCTION TO STATUS REPORTS ON ARGENTINA, CHILE, COLOMBIA AND PERU

Rodrigo Vera Godoy, FLACSO-Chile

Introduction

All four studies presented in this publication seem to base their methodological choices on similar assumptions. To facilitate discussion between seminar organizers and participants, we would like to review three components to help focus the debate and illustrate its complexity:

1. **Public debate: An arena for advocacy**
2. **Is this a debate between conservatism and secularism?**
3. **The political and cultural context of the debate in the '90s**

As a review of reports available at the beginning of the event, most assertions made here attempt to express the authors' feelings. What we have done is to organize the available information by reading these texts from the perspective of the three angles mentioned above. Responsibility for summarizing them, of course, is mine alone.

1. Public Debate: An Arena for Advocacy

It would appear that when the writers speak about public debate, they direct their eyes mostly to the media. They place the press, official statements and position papers front and center. A common thread in their reports is that the reader can identify certain actors as spokespersons for discourses and arguments that defend a position. Having thus demarcated the public nature of the debate, the authors proceed to delimit their reports and determine the methodological choices that will guide the reconstruction and decoding of discourse.

These reports agree that public debate refers to a political and cultural dispute taking place on a stage whose symbolic audience may be convinced by strong enough arguments. It is quite a non-trivial dispute, since at stake is recognition of a series of rights as universal. In other words, public debate on sexual and reproductive rights seems to be equated with a search for consensus on the universal nature of those rights. What is being discussed is the very foundation of universal recognition of these rights.

The reports recognize that when we refer to sexual and reproductive rights we are talking about political agreements that establish a cultural consensus on sexuality and reproduction. This reference is construed as an invitation to all nations to recognize these rights as a constituent of the human right to a full, dignified life. Debate, in this context, is understood as a mechanism that may or may not allow evolving from moral invitation to legal entrenchment. At stake are the hearts and minds of the public, the moral conscience that will legitimize or discard the agreements reached at international conferences.

Thus, the debate is a struggle for the collective conscience -for legitimacy- which seeks to socialize agreements, commitments and alliances for action and move forward on recognizing a right as universal and translate it into public policy.

Public Debate Occurs in Different Stages of Recognition

If the legal aphorism that custom is the origin of all law holds true, then countries are making progress towards recognition. They can work on the assumption that in most countries there is a new collective conscience that allows their representatives to join in and contribute to the international consensus-building about sexual and reproductive rights.

International conferences are an intermediate stage where countries reach political agreements and publicly commit to legally and socially recognize these rights.

The debate at hand takes place at the stage where agreement must be translated into policy. This requires opening up the debate so that the presumed collective conscience can become the explicit basis for legal recognition and the education that will making exercise possible.

Once policy and the required legislation and regulations are completed, then comes the lengthy process of implementing these across the many domains and actors involved.

This is followed by an education stage intended to empower people, communities and institutions to exercise sexual and reproductive rights in their daily lives. Public debate also takes place in this, the site of a struggle for the power of education, whether formal or informal.

In this context, the struggle for legitimacy happens between discourses that contain arguments and counterarguments meant to be heard and accepted by more than the political and cultural actors participating in the debate. In other words, on the one hand there is a representation of what is convincing, a collective conscience, and on the other, arguments with varying degrees of autonomy.

Thus, as part of the sexual and reproductive rights debate, the reports seem to assume that there is a process of public dispute for the hegemony required for entrenchment as policy and for the creation of conditions for their exercise by citizens mobilized for their rights.

Public debate recognizes that it involves actors that can be defined as groups with a political and cultural mission. Thus, the debate includes:

- ◆ Churches whose mission is to influence social ethics, i.e., the values that both influence personal consciences and support their political and religious power.
- ◆ Political parties wielding political power in representation of others and which seek to win hearts and minds.
- ◆ Social movements with a mission to participate in and influence political and social power and whose representativeness hinges on the collective conscience of individuals and their daily lives.

The reports assume that the media provide the material support allowing debate to take on its public nature: through them, the voices of political and cultural actors are heard. This assumes that the media are more than the stage and impart a

bias matching those of participating actors, in a process determined by the degree of democracy and freedom of speech in each country. The electronic and print media all fight for rating among different target audiences, which gives a particular orientation to the arguments being propagated.

2. Is this a Debate Between Conservatism and Secularism?

Reconstruction of the discourses involved in the sexual and reproductive rights debate seems to mimic ancient power conflicts and disputes, notably the Catholic Church's loss of the monopoly on moral power instituted in colonial times and lasting long after independence. In this context, reconstruction of the debate shows it indeed as yet another clash between conservatism and secularism. This is a significant theoretical choice which needs to be discussed as such. In very general terms, we acknowledge the use made of these concepts in the reports, since they illustrate both the depth of discrepancies and the chances for the consensual moral support that should inspire State action in these areas.

As to the fundamentals of conservative arguments, they seem to revolve around an appeal to a reaffirmation of nature, to the need to abide by what is characteristic of human essence, to an appreciation of tradition as the source of all wisdom. In other words, conservatism lays claim to the correct interpretation of certain mandates that must naturally be obeyed. Creation is the work of a creator of infinite compassion who has passed on the revealed truth.

On the opposite side of the spectrum stands secularism, a worldview noted for appealing to reason as the source of consensus-building and to a change in the way we understand and value culture as the foundation of universal ideals such as freedom, justice, equality, fraternity and democracy.

If the debate appeals to fundamentals in so many different ways, should we look for parallel, non-conflicting discourses? Or conversely, do they develop based on internal coherence and a refusal to accept the potential consistency of the opposing arguments? In other words, is this a dialogue of the deaf? It is difficult for such a debate to identify agreement and the potential for progress due to the depth of disagreement on the foundations of new sexual and reproductive rights policy.

Given the role of religious fundamentalism, the debate is more complex than the conservatism vs. secularism dilemma. Although this conservatism is of a type that appeals to sources and to the authority conferred by possession of the correct interpretation, it also aims to influence political power based on dogmas that are matters of faith. The reports recognize that fundamentalism should not be confused with all conservatisms or with an entire faith.

Fundamentalism is a dogma-based "societal model based on ascribing a text absolute characteristics, asserting a cause devoid of connection to historical, economic, political and cultural circumstances."¹ In general, it would appear that fundamentalism defines itself as the opposite of modernity, of the influence of culture and of the autonomy arising from a liberated interpretation of the times.

Fundamentalism sees enemies in pluralism, tolerance, diversity, individual autonomy and democracy. A culturally evolved idea of family, sexuality and life in men and women has no place in fundamentalist thought and practice.

While different among themselves, Latin American fundamentalisms seem to agree on the illusion of a return to patriarchal relations, to the subordination of women, to misogyny and homophobia. An ideal society controlled by heterosexual males and a fear of secularization are their ideological foundation.²

¹ María Alicia Gutiérrez. Catholic Church and Politics in Argentina - The Impact of Fundamentalism on Public Policies on Sexuality. CEDES Report, University of Buenos Aires.

² Carmen Posada, Derechos sexuales y reproductivos en Colombia, CORPRODESA, Report to South-South Dialogue.

Opposite to fundamentalism stands secularity, a type of liberalism based on the radical separation of religion and political power; of State and Church. It seeks to influence through agreement and consensus. While agreements can have any one of a range of religious basis, what matters to secularity is that they be based on ideas and actions based on an ethics of consensus rather than dogma.

Debate in a Post-Secular Stage

Notwithstanding opposition from the underlying theory to the actors in the dispute, public debate revolves around certain arguments the actors would like to become generally accepted. This requires the parties to accept each other's views. International Conferences provide a unique opportunity to encourage national debate before, during and after. The sexual and reproductive rights recognized at the Cairo conference are not separate from the preceding public debate and subsequent follow-up of the process of installing them as universal rights; debates which epitomized the new confrontation between conservatism and secularism.

The recognition that parties to a debate must first be able to freely state their positions if agreement is to be reached has strengthened tolerance. Religious communities recognize that the dispute for universal hegemony takes place in the arena of democratically illustrated common sense.

Debate also benefits from constitutional democracies, since they stand for pluralism, majority rule, and respect for the minority. The absence of democracy is an impediment not just to agreement, but to the very participation of States in forums seeking to advance the common good. If it is to flourish, public debate requires a distinct set of conditions.

Regardless of the sources to which debaters may resort, what is in dispute is common sense as an expression of a culturally constructed collective conscience based on freedom and on the intuitions (affection, emotion, reason) issuing from daily conversation.

Believers who participate in public debate need to know that this is made possible by a pluralist society. This assertion requires three observations.

The realization that no official church or religion exists often leads to cognitive dissonance among believers of various faiths. Admission that there are many churches and creeds, each with their own identity and thought, requires accepting the legitimacy of dissent within their own churches. Believers enjoy greater autonomy and freedom than in other debates, as these are emerging rights and issues religious authorities did not anticipate when interpreting their particular sources of wisdom.

In addition to recognizing the diversity of faiths, believers need to avail themselves of the authority of science to account for reality and for the hopes, reasons and desires of people as regards these rights. Science is in a position to make a valuable contribution on matters where systematization of empirical data or cultural issues is required.

Lastly, believers have to commit to the need for States to establish a nonreligious morality where all are included, regardless of faith. When invited to the debate, they need to know that this is not an exercise in the imposition of one view over another. Such debate ought to be understood as a common effort by individuals and actors who may think differently yet accept the need for social cohesion and consensus.

These reports show that in the fight for hearts and minds, some -especially fundamentalists- resort to illegitimate methods to shore up their arguments, raising questions about the ethics of exploiting the good faith of media audiences with tendentious, mistaken or simply distorted use of terminology to raise alarm about an allegedly perverse adversary. A case in point is misrepresentation of the concepts of gender and family planning.

The Catholic Church stand on sexual and reproductive rights harps on the notion that the real, hidden agenda behind attempts to assert these rights is legalized abortion. Conservative

gains and cohesion seem to hinge on the defense of life against the threat of non-religious thought or the degradation of modern culture.

Distorted research and evidence of dubious scientific value is often used to support arguments; also common is oversimplification of the root causes of sexual and reproductive issues. Reconstruction of the debate shows misinformation strategies whereby facts are often quoted out of context and generalizations are presented as sound findings.

Conservatives often claim to defend universal values that could be jeopardized by these new rights; their arguments often cite cultural identity as a barrier to the recognition of universal rights.

Similarly, sexual and reproductive rights are often vilified on grounds of individual autonomy. Charges that vast financial resources are being used against a powerless, poor and ignorant population are common.

Debate is frequently punctuated by attempts by Church leaders to stifle dissent. Also common are public threats against Catholic lawmakers who may not toe the official line on such issues as divorce or emergency contraception.

In brief, these reports help prove the need for broadening the debate to the ethics of a media argument between actors of enormously different power and influence. It is a known fact that Catholic-controlled media often refuse access to anyone not in agreement with Church teachings; recent examples include media bans on HIV/AIDS prevention campaigns promoting condom use.

3. The Political and Cultural Context of the Debate in the '90s

The debate has both context and history. In the region, secularization and the attendant redefinition of Church-State relations began in the 19th century and last until today. Initially, the Church fought to keep control over burials, marriages and schools; now it fights States wishing to impart sex

education not regulated by Catholic perspectives. In countries such as Chile, it also fights proposed divorce legislation. But where secularization faces its true test is on the issue of the resolutions on sexual and reproductive rights passed at recent UN conferences.

In most of Latin America, the '90s were the decade when democracy returned. This helps explain why debate on sexual and reproductive rights has reached such proportions, as most of the former military regimes were closely aligned with Catholic conservatism.

In addition, the globalization of communications and markets make for a very different context as the debate is influenced by information and arguments originating elsewhere. The reports show that in all four countries under review the Vatican uses the same arguments, refuses to discuss issues it considers matters of faith, and attempts to prevent adoption of sexual and reproductive rights recognized at international events it attended and where it made every objection it saw fit. Debate is thus made both richer and poorer -richer because it is less encumbered by parochialism, poorer because the logic of Church leaders prevents positions from evolving and taking stock of cultural change.

A key part of the context are the Cairo, Beijing and Copenhagen agreements recognizing sexual and reproductive rights -a debate to which conservatives object and attempt to rehash time and again. This factor helps internationalize debate by appealing to the public conscience not only of a particular country, but of an entire community of democratic nations. The preparatory events and publications and the agreements reached at these conferences constitute forceful documentary reference that enriches the debate and allows progress towards universal recognition to be assessed.

The reports agree on the legitimacy attained by feminist and women's movements. Many ideas that prevailed in the debate came from feminists and other women who managed to influence the preparatory,

consensus-building and national debate stages. This is a key fact of the context in which the debate took place, eliciting the support of progressive groups and the opposition of conservatives.

While unfailingly conservative, the Catholic Church seems to draw on the legitimacy gained from its track record on democracy and human rights - with the important exception of Argentina, where it was heavily involved with military dictatorships. Yet whatever its record, the Church is growingly more unbending and concerned with fighting change in the field of sexuality and reproduction.

As the UN international conferences unfolded, Catholic hierarchies emerged as monolithic, international political and religious actors increasingly dominated by conservative groups such as the Opus Dei and the Legionnaires of Christ. Consistent with its affinity for political and social influence, this anti-Marxist, pro-democracy Church reasserted its hierarchical nature and took a stand against war, human rights violations, poverty and the neoliberalism behind it. The Church also dominated the abortion debate, condemning abortion under any circumstances and reasserting its unrestricted defense of life and rejection of violence.

An additional dimension of the debate is scientific and technological progress in matters of contraception. Recent disputes over emergency contraception, for example, have revived old debates about family planning and modern contraception as demographic transitions place the sexual and reproductive rights discussion in the region within a new context, less centered on population growth.

Great strides have been made in expanding primary and to a lesser extent secondary education, which means that the debate is now being followed by audiences which can access other sources to find out more or verify what they hear through the media. A significant part of the context, literacy is directly linked to fertility reduction and to integration of women into the labor force.

An additional key aspect of the context for debate is the HIV/AIDS pandemic. As a topic of both conversation and public policy, HIV/AIDS have doubtlessly changed sexuality. This facilitates integration of the HIV/AIDS prevention and treatment aspects of the sexual and reproductive rights debate into the political agenda.

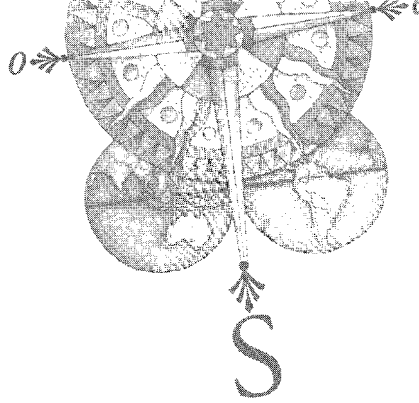
While they all face the Catholic Church and their fundamentalist stand-ins, in all four countries the debate takes place under very specific circumstances. In Argentina, a severe social and economic crisis has hampered debate and limited it to the interactions of powerful religious and political leaders.

In Colombia, the debate is permeated by the violence inflicted by paramilitary groups, guerrilla forces and the Army. The effects of violence -rape, resulting pregnancies, reproductive health problems, rise in STDs, survival prostitution among displaced women- on the sexual and reproductive health of women are a matter of public record.

In Chile the decade was marked by a return to democracy based on reconciliation and avoidance of confrontation and polarization between conservative and progressive positions, especially as regards sexual and reproductive rights.

Peru first went through a government that supported family planning and was even willing to confront the Church on the issue. Then, a populist government restored Catholic Church power over the sexuality discourse and prevented public debate on sexual and reproductive rights.

To sum up, the debate took place in an extremely complex social and political context. All four countries displayed both differences and similarities within a technological context that favored globalization of the debate and a rights-centered approach to policymaking, especially on poverty, gender discrimination and the consolidation of democracy through the exercise of citizenship.



THE CATHOLIC CHURCH AND POLITICS IN ARGENTINA: THE IMPACT OF FUNDAMENTALISM ON PUBLIC POLICY ON SEXUALITY

María Alicia Gutiérrez. Sociologist, University of Buenos Aires

“This is not as much about reconstructing facts as they occurred as to capturing them as they blaze today, in this time of danger”,
Walter Benjamín.

1. Introduction

In the social sciences, the study of the relationship between politics and religion is not news. Ever since the formulations of classic sociology, which linked Western modernity and rationalization to secularization, demarcation of the boundaries between these domains has been subject to debate.

In this brief presentation we intend to account for the ways in which religious logic is present in the dynamics of politics, at a time when fundamentalist religious discourse and political action are on the offensive. We will review the extent to which the religious discourse permeates political logic and policymaking on such critical issues as fertility regulation, abortion, HIV/AIDS, violence, and sex education. We will also review the discourse and activities of the women's movement as a key player in the defense of sexual and reproductive rights.

While churches see the modern State and politics as foes, they also recognize that they can help

guarantee their standing. Similarly, whenever circumstances have lacked in meaning, civil power has sought religious support for its activities.

Whether religion uses politics or vice versa, in modern times these relations exist against a background of insurmountable tension.³

While the contents of the modern social agenda - reproductive rights, divorce, homosexuality, education- bear the mark of indeterminacy, some have entered the political agenda -which Churches have targeted as would-be co-legislators. While they cannot tackle the entire political agenda, they can politicize certain key issues they feel jeopardize their standing and their conception of man.

2. Foundation or Fundamentalism: An Open Question

In October 1978 Karol Wojtyla became Pope John Paul II and proceeded at once to take the Church

³ Meccia, 2001.

down a new path. In the industrialized world, the economic crisis of the '70s -which would expand to the fringes in the next decade- became a turning point for the indefinite progress typical of the Keynesian welfare state that prevailed after the Second World War. In the economic and international order, the bridge was provided by the appearance of neoconservative reaction in the field of politics. This process, later passed on to developing countries, was complemented by an effort to persuade and impart ideological legitimacy to the end of history and the benefits of capitalism.⁴

Within the Catholic Church, the Opus Dei, spearhead in the fight against modernizing tendencies, displaced the Society of Jesus as the leading influence on the papacy. After a period of apparent reconciliation, virulent criticism of modern thought was back with a vengeance.

While the rise of the unified school of thought in economics, politics and international relations marked the period of influence of neoliberalism, the re-emergence of fundamentalism in response to fragmentation and dissent and its digression toward extreme forms would become a sign of the times to many faiths.

Thus, properly addressing the issue at hand requires a prior brief review of foundations and fundamentalism, two related but different concepts expressed in collective activities and quests for meaning. The predominance of one or the other -through their public expressions, among others- becomes evident in politics.

Western philosophy was born from the quest for foundations (arché) or meaning of the Universe. This became its *raison d'être*. According to Dri,⁵ "the name will change and so will the way to seek and to address it, but it will always be there. It will be Plato's ideas, the Aristotelian *ousia*, and finally the *theos*, the ultimate foundation and purpose

of everything; it will be the highest pleasure of Epicureans or the universal reason of the Stoics. It will be the categorical Kantian imperative, the universal Hegelian knowledge or the Habermasian emancipated, universal communication society".

The crisis of Western reason is characterized precisely by the loss of the sense of centrality. Postmodern theorists will express the idea of the loss of unique and absolute meaning and of deconstruction of the Cartesian subject. Several authors suggest that, in addition to wholeness or uniqueness, postmodern reasoning also has a need for foundations.

Religions also reflect the search for foundations, a search which emerges under various guises at different times. God will legitimize the sovereign as its earthly representative, and his authority will be used to justify the discovery and conquest of Latin America.

Societies, like political action, are legitimized by a foundation -God, knowledge or the social contract, among others.

Fundamentalism, unlike foundations, is "a societal model based on ascribing a text, assertion or cause absolute characteristics; in brief, an allegedly revealed truth, devoid of connection to historical, economic, political and cultural circumstances".⁶ The significance of this is that the religious is intertwined with the political and social. When an absolute, revealed truth reigns, there is no room for tolerance, dissent, difference or negotiation.

As noted by Dri, "the first to employ the word fundamentalism, at the turn of the 19th century, were North American anti-liberal Christians who based their faith on seven principles. The term came to be as a proud self-description. The first principle was to consider the Bible as the literal truth -perhaps the most apt definition of fundamentalism. To be a fundamentalist is to go

⁴ Durand and Gutiérrez, 1997.

⁵ Dri, 2001.

⁶ Ibid.

by the book, which in turn means to profoundly fear anything that is improvised, ambiguous, or uncertain.” Therefore, the main idea is that a faith should be firmly rooted in its complete and literal form, without concessions, nuances, reinterpretations or reductionism. According to Gellner, “it assumes that the core of religion is doctrine rather than ritual, and that doctrine can be precisely and categorically established, which in turn presupposes the Scriptures.”⁷

Per Bourdieu,⁸ St. Augustine’s clearly fundamentalist influence provided the basis for a closely related, unified political and religious system. This centrality of the absolute, the inability to register the presence of otherness which typifies fundamentalism, can be extrapolated to other forms of thought and political action that turn hegemony of their ideas into the be all and end all. This is valid for the political field as well as for economics. As Gellner (1994) notes, “. . . religious involvement in the USA is high, but more than insisting on theological distinctions, religion here is the worship of the American way of life”.

Neoliberalism, a response to the capitalist crisis of the ‘70s and ‘80s, is a hegemonic system of thought and political action. Friedrich Hayek and Milton Friedman worship the market as the ultimate foundation of social order. As the market is the linchpin of the logic of collective action, the strategy spreads throughout the world without much regard for cultural differences. In much of Latin America, and Argentina in particular, structural adjustment translated into privatization of public utilities, cutbacks in social expenditures, labor flexibility, public spending rollbacks, poverty eradication programs and devastation of public education and sexuality policy or absence thereof -all clearly associated with a fundamentalist conservative ethos.

The fundamentalist pre-eminence of the market logic is part of globalization, a process to which churches have contributed a renewed

fundamentalist zeal, thus smoothing the sometimes conflicting relationship between politics and religion. Yet, as Ramet and Treadgold note,⁹ “Not all faiths proselytize; not all vie for control the State apparatus; not all necessarily promise salvation or condition it on obedience; not all insist in the unity of dogma and tradition as, for example, Catholicism does.”

Latin America was conquered and colonized by the cross and the sword. It was precisely within the proselytizing logic whereby dogma and tradition were united that the region’s nation-states were created. This is why, although other faiths do exist in the region, in the case of Argentina an understanding of the status of sexual and reproductive rights requires an analysis of the link between Catholic Church, politics and the State. The existence of other faiths does not prevent the Catholic Church from enjoying privileged status on the political agenda.

This is the gist of this review of Church-State relations and prevailing concepts of sexuality and sexual and reproductive rights in Argentina, which will certainly include prevailing ideas about women and gender. To be sure, the serious impact on women of the Catholic Church’s conservative, judgmental discourse on sexuality in general and women in particular require an attempt to understand the totality of Catholic political action. We will place our review of this human right women are denied in the context of neoliberalism -the economic, political, social, and cultural model implemented, with some country-dependant differences, during the ‘80s and ‘90s.

3. Catholic Church, State and Politics: A Contradictory Relationship

While available data on Argentineans and faith is not reliable, the vast majority of the population is reportedly Catholic. Unofficial data place the

⁷ Gellner, 1994.

⁸ The concept of “field”, taken from Pierre Bourdieu (1987), refers to structured positions with specific properties and a certain symbolic capital, whose monopoly control leads to confrontation. The symbolic capital is the basis of specific field authority.

⁹ Ramet and Treadgold, 1991.

population at 92% Catholic, 2% Jewish, 2% Protestant (various denominations), and 4% minority creeds (i.e., Umbanda and other Afro-Brazilian cults, Islam, etc.). Yet only 24% of the purportedly Catholic population actually practice their religion. It would appear that Catholicism is more of a cultural than an expressly religious identity.

In the words of Guiñazú,¹⁰ while “neither the 1853 Constitution nor the reforms of 1994 proclaim an official religion”, a series of constitutional provisions did give the Catholic Church privileged standing. Article 2 of the 1853 Constitution required the Federal Government to “support” the Catholic faith – as in financial support. Article 14 guaranteed freedom of religion, but Article 75 required the President to be “from the Catholic community”.

The Constitutional reforms of 1994 changed some of these provisions. Presidents no longer have to be Catholic, but Article 2 was untouched.

At present, the Catholic Church in Argentina consists of 68 dioceses, 107 bishops, 5,648 priests, 77 male religious orders, 72 female religious orders, 7 universities and 2,543 primary and secondary schools.

a) Looking Back in History

Relations between the Catholic Church, the State and politics have travelled a long, winding path.¹¹ They date back to the colonial period and subsequent proclamation of the new Argentinean state, which quickly demanded control over the Church through the system of Royal Patronage conferred by the Pope and ended only in 1966.¹² While not expressly proclaimed an “official religion”, Catholicism was granted special status.

State protection and funding of the Catholic Church signaled its privileges vis-à-vis other religions, but it also implied political involvement in the election of bishops, the creation of new dioceses and the distribution of papal bulls.¹³

Still, in the early 20th century the Catholic Church remained a poorly-organized, socially marginal institution that was finding it hard to compete with a secular elite influenced by positivism and liberal thought. Education and family issues were the arena where most confrontations between Church and State were being played out, as the former reacted to the transformations brought on by modernity.¹⁴

It was only during the ‘20s that a robust, important and growing connection began to appear between oligarchic elites and the Church, mostly a consequence of stronger links with the Vatican and the influence of European priests recruited to assist immigrants. The result was a religious nationalism of sorts that contended that Catholic values were an essential part of the national identity and provided an outlet for a symbiotic Church-State relationship.

The Church welcomed the military coup of 1930, and in return, some of its members received sinecures and plum government posts.¹⁵ The International Eucharistic Congress of 1934 provided further evidence of the strength of a fundamentalist Church which claimed a role in politics as its birthright.¹⁶ Subsequently it became common for leading clerics to “suggest” names for education and family cabinet posts.

In the Catholic worldview the family unit is the bulwark of a nation’s most cherished values, and

¹⁰ Guiñazú, 2003.

¹¹ Zuretti, 1972; Mehan, 1966.

¹² Medhurst, 1991.

¹³ Caimari, 1994.

¹⁴ Gutiérrez, 1991; Auza 1975, 1984.

¹⁵ Torres, 1992; Mallimacci, 1988; Zanatta, 1996.

¹⁶ The Catholic Church would experience it as a true foundational landmark for the strengthening of its principles in civil and political society. Leaving past conflicts behind, Church and State came together to consecrate the country to Jesus, conveying the image of a nation inseparable from its Catholic principles.

the roles that later will surface in the hierarchic organization of society are forged within it. One of its key aspects is relegation of women to the hearth, their “natural” place. This concern has to do with changes in the role of women brought on by modernization and clearly perceived by the Church. Rupture with traditional society occurs due to the secularization that comes with changes in education. Criticism focuses on the lack of religious instruction and the spread of positivist, illuminist and secular ideas through teacher training programs. This concern will focus on women’s loss of interest for religious issues and rites as they learn professions and trades and join the labor force. It became necessary, then, to salvage the most “noble” aspects of the female condition: meekness, submission, the defense of traditional values and all they imply for their rights and sexuality. Ascribing to women the role of bearers and preservers of morality implies denying their adulthood and the right to autonomously and responsibly exercise their sexuality. This idea about women appears often in Argentinean history in a variety of contexts.

The 1943 military coup and subsequent election in 1946 of Juan Domingo Perón as President gave Catholic leaders access to the very heart of power. The initial support Perón secured from the Church leadership (Pastoral Letter, 1945) helped him validate his claim on power. In return, he imposed religion as a subject in public schools.¹⁷ Backed by the Peronist labor movement, Gen. Perón appealed to the ingrained Catholicism of the urban masses.¹⁸ Peronism’s efforts to capitalize on the combination of nationalistic feelings and popular religiosity which characterized the vast majority of the underclass went, to a great extent, beyond the control of the Church hierarchy. This combination occurred in a country of formally - counting all baptized as such- but mostly lapsed Catholics. In other words, as before, Church power depended more on its superstructural ties with

the government of the day than on a real bond with the people. The government, aware of this weakness, appealed precisely to these sectors.

These strategies, and the role of Eva Perón as an effective competitor for the devotion of the disenfranchised, exposed the latent contradictions between political and religious power and, to certain degree, contributed to the allegiance switch that led to Perón’s downfall. Indeed, the elite’s disapproval of his policies on divorce and education had placed him in a collision course with the Church (Caimari, 1994). Felt by Catholics as fuzzy anticlericalism, these policies resulted in the withdrawal of Church support, which paved the way for the 1955 coup that overthrew Gen. Perón.

Argentinean politics between 1955 and 1973 were marked by political maneuvering designed to exclude Peronists. In 1966 these crystallized in a coup led by General Juan Carlos Onganía at the helm of a new political-military alliance, with a nod from the Church. Interestingly, some coup leaders were former *cursillistas*.¹⁹ A key controversy had come about in 1958, as President Arturo Frondizi proposed a law authorizing creation of private universities, mostly Catholic. The law was strongly opposed by university and secondary students, intellectuals and the urban middle class. Known as the “secular vs. free education” confrontation, “free” was taken by the Catholic Church to mean the right to establish its own private, degree-grating universities. President Frondizi adopted a compromise solution: private universities would be granted official status and could issue degrees, but professional accreditation stayed in State hands. The political history of the Church in Argentina ever since is a consistent alliance with conservative and coup-prone sectors.

In 1976, reviving old alliances and endorsing authoritarian politics, Catholic bishops came out in support of the new military regime, thus

¹⁷ Lubertino, 1987.

¹⁸ Forni, 1987, 1988; Kennedy, 1958.

¹⁹ Participants in Catholic education courses for political, social, and military leaders during the sixties.

alleviating the consciences of many a conservative Catholic.²⁰ Catholic nationalism became a theological complement to the Doctrine of National Security.²¹ Church collaboration became institutionalized through a Military Vicariate and regular exchanges between the Military Junta and the Standing Committee of the Conference of Catholic Bishops.²²

Particularly controversial was the role of the Church in the violation of human rights. Unlike Brazil and Chile, the Argentinean Church offered no help to victims of repression.²³ In addition to refusing to assist or support people facing critical situations, most Catholic Bishops shut themselves away in private interviews with military leaders and made few public statements. In short, an extremely low profile in the defense of human rights and, in many cases, tacit approval of violations.²⁴

The Church raised the bar in each successive military regime. While in the '40s it was content to seek mandatory religious education and fight divorce legislation, in the late '70s the dynamics of Argentinean politics led it to fully side with a regime built on massive human rights violations, with the blessing of the politicians of the day.²⁵

Its unenthusiastic response to the principles of Vatican II and the limited impact of Liberation Theology and the "preferential option for the poor" placed the Argentinean Church, along with its Colombian counterpart, at the forefront of the "re-Christianization" drive John Paul II launched with

a vengeance, first in Latin America (considered the quintessentially Catholic continent), then in Europe after the fall of the Berlin Wall.

The Church battle against capitalist modernity focused on criticizing individualism and attempting to impose Christian values on society as a whole, ignoring dissent and plurality, with education as a central point and the family as the basic unit. Cultural Theology, designated as such in opposition to Liberation Theology, would reach every confine of the American continent, helping the Church retake the leadership role it played since colonial times.²⁶

In 1981 the attitude of Argentinean Church leaders took a new turn. The Conference of Catholic Bishops produced *Iglesia y Comunidad Nacional*, a statement suggesting a redefinition of Church positions about the State and society.²⁷ This required new access to political and social structures and a new relationship with politicians.

The Church was extremely ambivalent about the transition to democracy. President Raul Alfonsín (1983-1989) moved to defuse long-standing anticlerical sentiment in some sectors of his party and reassured the Church that its State subsidies were safe. Yet, bishops noted for their lukewarm support for democracy soon started to complain that social problems had been made worse by its advent, citing a crisis of the family, drug addiction, AIDS and pornography as a direct result of the corrosive effect of secular and liberal values. These statements by Catholic traditionalists sought to

²⁰ Torres, 1992.

²¹ In the words of Leon Rozitchner (1997), "Bear in mind that the crucified image was initially the terrifying threat of Roman domination on each living individual. That image is now complemented, inside us, with that of the disappeared, masked, tortured, and murdered by our military; heroes that once again are summoned under the figure of the Mother of God, patron of the Armed Forces, supported by a consistent Church that sanctified new torture over the background of the old one."

²² Casalins, 1998; Dri, 1987.

²³ Crahan, 1991.

²⁴ The few clerics who worked in human rights did so without hierarchy support. The absence of unequivocal repudiation of human rights violations by the military (once the transition to democracy began), entailed, in actual fact, Church support for the amnesty extended to military heads (Gutiérrez, 1992; Mignone, 1986; Dri, 1987).

²⁵ The Church discourse does not account for the "right to life" that Catholic spokespersons so vehemently use on abortion, and sexual and reproductive rights issues.

²⁶ Ezcurra, 1988; Ghio, 1991.

²⁷ Huntington, 1991.

exacerbate the destabilizing anticlericalism President Alfonsín had tried to defuse.

b) The Nineties

The return to democracy of the '80s and '90s in Argentina and other Latin American countries was marred by a worsening social crisis. In a scenario of incipient globalization, tough political and economic measures were adopted to lead the country into the neoliberal system sweeping the continent.

The Argentinean crisis predated the sweeping economic changes introduced by President Carlos Menem. These only exacerbated a strong trend first conceived and applied by previous military governments. Yet it would fall to Peronism -to a President inspired by Thatcherism and Reaganism who led a conservative-popular coalition- to launch the most far-reaching structural adjustment process tried in Argentina in 50 years. His advent was to set both politicians and the Catholic Church on a new course of action. On abortion and sexual and reproductive rights they were strong allies; yet starting in 1995 the Church became an increasingly vocal critic of the economic model and the proliferation of poverty and marginality.

In preparation for the International Conference on Population and Development (Cairo, 1994), the government sought to forge a new alliance with the Catholic leadership. This came at a time when despite being generally supportive of the administration -as personified in Cardinal Quarracino- the Church was becoming increasingly critical on the poverty issue. With presidential elections coming up in 1995, co-opting key sectors of the Catholic Church to ensure re-election was not far from the minds of government leaders.

The government and the Church leadership discussed and agreed on a constitutional reform

proposal (1994) and on the official Argentine position to the ICPD, the Social Development Summit (Copenhagen, 1995) and the World Conference on Women (Beijing, 1995). Delegation members were named by ranking officials, without consultation or representation from the social movement, and ordered to toe the official line.

In 1994, during the Constitutional reform debate, the government proposed a new article entrenching the protection of life since conception. The move was welcomed by conservatives and most of the Catholic Church, which felt its compact political and ideological alliance with government was the strongest it had ever been.

In 1995, the Beijing Conference on Women put abortion and sexual and reproductive rights back on the agenda. Ambassador Regazzoli, head of the Argentine delegation to Beijing, explained to the Conference that Argentinean women were well conscious of "their mission as mothers and wives, as females who must join with males in order to procreate" (*Clarín*, 1995), forcefully stating a defense of family life and of the role of women as keeper of the home fires.²⁸

Government positions at these events and within Argentina were part of a calculated political move. Tepid at first, increasingly strong later, criticism from the Argentinean Catholic Church and the Pope himself of the effects of neoliberal structural adjustment had undermined President Menem's textbook relations with the Conference of Catholic Bishops. When Church leadership passed to Bishop Estanislao Karlic in 1995, he demanded immediate changes in social policy as well as judicial transparency and better control of corruption.

Government concessions to the official Catholic position on abortion and sexual and reproductive

²⁸ A few days before the Conference, and much to the surprise of feminists, the Pope pointed out the value of "female genius" focusing on the need for women to attain "a condition of real equality", showing consideration for "the duty and the right of the woman-mother to her specific family duties, which should not be construed as an excuse to disregard the principle of equal opportunity in extra-family labor" (*Clarín*, 1995). Using diplomatic skills to advantage, the Vatican placed itself in an ambiguous position, leaving the Argentinean delegation as the staunchest of fundamentalists.

rights seem to owe less to conviction than to a desire to calm things down and moderate demands on poverty. Yet, despite yielding time and again, to the point of designating an advisor on “unborn rights” and proclaiming the “Day of the Unborn” -which earned the President a Vatican commendation- the strategy did not bear much fruit.²⁹

The key issues of the ‘90s were poverty, labor, morality, sexuality, and education -not much difference with State-Church dialogues and mutual entreaties through much of the 20th century.

Having failed to mute Church criticism, the Menem administration used two strategies: first, critical bishops were deemed unrepresentative of the Church at large, and second, it set out to build alliances on sexuality. To each social flashpoint involving sectors of the Church, Menem opposed his position on abortion.³⁰

In 1996, after the debate on the Reproductive Health Act and the Buenos Aires Constitution, the Conference of Catholic Bishops reiterated its position on abortion: “Our country has always valued life as a gift and preserved it with the concern of its laws and the gentleness of its best care. However, we notice with great concern that, under the guise of responsible parenthood, anti-birth -and even abortive- approaches and techniques are being adopted by legislatures, thus destroying the gift of life and offending the dignity and intimacy of individuals”.³¹

President Menem reiterated his hard stand against abortion during a visit to the Vatican, where he was asked to align himself with the Church position on abortion and family issues at international forums -an extreme position which is clearly

political yet is couched in the theological and philosophical foundations of Christian doctrine.

Shortly before the 1999 presidential vote won by Fernando de la Rúa, debate on abortion was back on the public scene. In a meeting of Latin American politicians summoned by the Vatican and likeminded politicians, potential future rulers were asked to emulate President Carlos Menem and commit against decriminalization of abortion.

The year 2001 was marked by a deepening economic and institutional crisis and social unrest, culminating in December with the resignation of President de la Rúa. The Catholic Church regained some its legitimacy through its long-standing poverty relief work and partial support of unemployed workers groups and worker-controlled factory and neighborhood committees. Newfound legitimacy helped the Church to launch the abortion and sexual and reproductive rights debate anew.

At this time debate on federal and City of Buenos Aires bills on sexual and reproductive health became again part of the public agenda. While the Church reasserted its traditional position, the Buenos Aires and federal bills were nonetheless passed in 2001 and 2002, respectively.

4. Sexual and Reproductive Health and Rights

a) Political and Historical Context

While in Argentina the State was historically loath to recognize sexual and reproductive health issues, in 1974 the situation became critical as the administration of Isabel Perón passed Decree 659 banning birth control activities, imposing

²⁹ Gutiérrez, 2000.

³⁰ In *Evangelium Vitae*, John Paul II reiterated his condemnation of abortion, contraception and euthanasia: “Abortion on demand is the deliberate and direct elimination, in whatever way, of a human being in its initial phase of existence, which goes from conception to birth” . . . “Direct abortion, that is, sought as an end or as a means, is always serious moral confusion, as regards the deliberate elimination of an innocent human being.” The Pope states that the responsibility “devolves upon legislators that promoted and approved laws that harbor abortion and, to the analogous extent, upon managers of health facilities engaged in performing abortions” (*Página 12*, March 1995).

³¹ *Página 12*, August 1996.

controls on the sale of contraceptives and launching an education drive emphasizing contraceptive risks.³²

The argument that Argentina was a country with vast uninhabited spaces, which weakened it geopolitically, became the cornerstone of the population policy imposed by the ensuing military regime. In 1977 Decree 3938 established a National Commission on Population Policy. Its charter stated the need to “eliminate birth control activities” since “growth and fundamental national security reasons require a better population-to-territory ratio”.³³

Decree 3938 and others like it were repealed in late 1986 by the democratic government elected in 1983. In a legal first, Decree 2274 recognized “a couple’s right to freely decide about the number and spacing of their children”. The Decree required the Ministry of Health to take action to improve maternal and child health and support the family unit. It stressed the importance of contraception education for the population to exercise its right to decide on the number and spacing of children. The Decree lifted the ban on provision of contraceptive services at public hospitals, recognizing the couple’s right to decide about reproduction “with increasing freedom and responsibility”.³⁴

Until the ‘90s there was little debate or room in the public agenda for women’s demands on sexuality and reproduction. In Argentina, sexual and reproductive health and rights issues are rife with social, age, gender and regional differences.

Reproductive health indicators in Argentina do not match other socioeconomic development indicators. While per capita health expenditure and GDP have been historically higher than elsewhere

in the region, these fail to correlate to infant mortality (16.6 per 1,000 live births) and maternal mortality rates (43 per 100,000 live births).³⁵

b) Sexual and Reproductive Health and Rights

Sexual and reproductive health and rights should be seen from three perspectives: as a matter of public health, because the State should guarantee both absolute respect for private decisions and the material conditions for its implementation; as a matter of social inequality, because while the lack of policies and legislation affect all women, it has lethal effects on poor women; and as a matter of citizenship and democracy, because it empowers women for decision-making.

Sexual and reproductive health and rights imply both the absence of disease and the right to freedom and autonomy, which in turn require respect for economic and social rights.³⁶ This includes the need for political organization and participation in order to articulate and fight for these rights. Understanding sexual and reproductive rights as a broader social issue not limited to the domain of health should consider a development and political model as well as gender awareness.³⁷

Pervading this perspective of sexual and reproductive rights are the issues of power and material resources.³⁸ This understanding of rights presupposes an understanding of citizenship requiring a new and inclusive social contract which does not discriminate on the basis of gender, race, religion, class, ethnic group, etc.³⁹ Sexual and reproductive rights are a pivotal issue standing at the intersection of the public and private domains.

Sexual and reproductive rights are an issue born of women’s struggle for emancipation. It is a matter

³² Gutiérrez et al., 1996.

³³ Ibid.

³⁴ Ibid.

³⁵ Ministry of Health, 2002.

³⁶ Correa and Petchesky, 1994.

³⁷ GIRE, 1994; Plata, 1995.

³⁸ Rosenberg, 1995.

³⁹ Reis Pra and Baquero, 1997.

where women are subjects with a voice and a body: a voice to demand their rights under the law and a body as the domain where gender discrimination and the lack of comprehensive health policies take a toll. These are bodies to which the patriarchal system does violence by muting their voice; theirs are social and economic, not merely health problems.

This leads us directly to the gender issues that permeate the conception of these rights and to the historical discrimination faced by women in the public domain where these rights are exercised.

c) Fertility Regulation

The fertility rate in Argentina has declined steadily since the turn of the last century. In 1950 it stood at approximately three children, half the rate for Latin America as a whole. The rate had few variations through the '50s. It rose in the late '60s until reaching 3.4 in the mid-'70s, then decreased sharply. In the early '90s the overall rate stood at 2.8.⁴⁰

Currently, Argentinean women have 2.4 children on average.⁴¹ Fertility exhibits great differences depending on district and socioeconomic level. The highest rates are found among poor women and in deprived regions.⁴²

While much social value is ascribed to motherhood and it stands as one of the few areas where women wield power, it also involves confinement to the private domain. The fact that it is women who bear the progeny is a basic feature of the gender-sex system, as it produces a certain ideology about the capabilities and nature of women and male dominance. Wives and mothers physically and psychologically reproduce male workers and teach their daughters to become mothers in turn.⁴³

Teenage pregnancies are relatively high in comparison to the overall rate.⁴⁴ Approximately 15% of all babies are born to mothers aged 10-19. "Early parenthood has dire economic and social consequences, notably fewer learning opportunities and consequently lower earning potential, which impacts the quality of life of both mother and children."⁴⁵

According to a 2003 CEDES report, "data on contraceptive use is scant because Argentina has not taken part in any of the international measuring undertakings, including the World Fertility and Demographics and Health Surveys on prevalence of contraceptive use. Data from the Living Standards Measurement Survey (LSMS, 2001) conducted by SIEMPRO show 60% contraceptive use (both modern and traditional methods) among sexually active women. When differentiating based on class, data show that 62% of non-poor women and 56.4% of poor women use or have used contraceptives." Lowest use was found among younger and older women.

While an important factor, reducing the issue of teenage pregnancies to a lack of reproductive information could lead to an excessively rational approach and oversimplify the reasons keeping teenagers from practicing efficient contraception. While it is agreed that the lack of sex education is serious and should be urgently addressed, it is also fundamental to consider the psychological, social, and cultural factors leading many teenagers toward "...validating femininity and adulthood by means of pregnancy, which paradoxically places them in a state of greater abandonment than during the childhood and adolescence they leave behind".⁴⁶

A distinctive feature of Argentina is a marked inequality in access to contraception. These

⁴⁰ Valdés and Gomariz, 1993.

⁴¹ INDEC, 2003.

⁴² CEDES, 2003.

⁴³ Martínez, 1992.

⁴⁴ Gogna et al., 1997.

⁴⁵ Díaz Muñoz et al., 1996.

⁴⁶ Checa and Rosenberg, 1996.

difficulties affect contraceptive behavior, increasing the ineffectiveness and lack of safety of these methods (i.e., lack of continuity, adverse side effects, wrong prescription, etc). The result is often an unwanted pregnancy and an unsafe abortion.⁴⁷

Policy and Legislation

According to the CEDES report, “the first policy initiative was implemented in 1988 by the Municipality of Buenos Aires, when the Responsible Procreation Program was implemented for the purpose of providing contraception information and assistance at public hospitals”.⁴⁸

The 4th World Conference on Women (Beijing, 1995) placed abortion and sexual and reproductive rights back on the agenda. However, despite Argentina’s overly conservative position, sexual and reproductive issues loomed large in the final Beijing statement, aligning Argentina and a few others with the retrograde stances of the Vatican. The women’s movement -both in Huairou, China, seat of the parallel NGO Forum, and in Argentina- fought the fallacy of the official discourse by denouncing deficiencies in reproductive health care which impacted poor women especially hard. Despite all pressures, references to reproductive health were finally agreed upon in the chapter on health, which Argentina signed with reservations.

The atmosphere achieved in Beijing and the importance of the final resolutions inspired many to pose the need for a Reproductive Health Act in Argentina. A bill jointly drafted by a group of female representatives and Women for Freedom of Choice (MADEL) made it possible to publicly debate what is an everyday reality for real women, especially the underprivileged: the inability to freely make reproductive decisions and the absence of the appropriate health services.

MADEL sought to avoid specific mentions of abortion, focusing instead on i) Access to information and contraceptives, on the understanding that wanted pregnancies and freedom of choice would inhibit the use of abortion as a birth control method; ii) That abortion is a matter of public health and social equity, since only underprivileged women are denied them; and iii) Reformulation of sexual and reproductive rights as a comprehensive health care issue not limited to pregnancy or postpartum care and including information on STDs, HIV/AIDS, prevention of genital and breast cancer, etc. This consideration entailed power and resources to enable their exercise, the so-called “qualifying conditions”, that is, the necessity for respect and compliance with economic and social rights and ethical considerations.

The Catholic Church reacted against the bill and public debate on sexual and reproductive rights with a systematic media offensive alluding to feminism gone mad, biological colonialism, the right to life since conception, parental authority over minor children and the parental right to teach adolescent children.

MADEL responded to the Catholic fundamentalist offensive through demonstrations and the mass media. Women’s madness, if any, they wrote, has to do with denial of the right to decide without coercion about sex and reproduction. MADEL was confronting a conservative coalition organized and built around the pro-life movement and the leadership of then Justice Minister Rodolfo Barra, who also tried to align the ruling party bloc, which had no consensus opinion, behind the position of the government and the Catholic Church.

Discussion then focused on the name of the law, and an attempt was made to change Reproductive Health for Responsible Parenthood in order to convey the idea that the focus was on reproduction rather than the free exercise of sexuality. The exact

⁴⁷ Balan and Ramos, 1989; López, 1993 quoted in CEDES, 2003.

⁴⁸ CEDES, 2003.

methods of contraception were a second bone of contention.

Fabriciano Sigampa, Bishop of La Rioja, wrote President Menem to say that the Responsible Procreation bill attempted against the right to life since conception, because it "...accepts and promotes abortive contraceptives (in reference to the IUD controversy), contradicting the official Argentinean position in Cairo and Beijing".⁴⁹ Yet women demanded autonomy and freedom of choice; otherwise, they would be compelled to either abort or continue an enforced pregnancy.⁵⁰

Another key point was the target group. The Church and the conservative coalition objected to adolescents obtaining information and contraception without parental consent.

Yet the Lower House voted 124-9 to pass the Responsible Procreation Act -known to all as the Reproductive Health Act, showing the scant impact of agreements made behind closed doors. After clearing this hurdle the Act moved on to the Senate, where it would face the strong opposition of the ruling party majority. There it languished for two years until it died on the agenda. Senators objected to contraceptive methods and wanted to introduce conscientious objection and parental permission. If implemented, these objections would have deprived the law of connection to the real needs of real people. Once again, the Church showed that its need to preserve its authority and social control was above the well-being of the population.

For years, reopening discussion on a federal Reproductive Health Act was next to impossible. As a result, several provincial legislatures chose to pass their own.

Debate on a federal bill reopened in 2001. As before, the Church was asked to clear its contents. Later that year it passed first reading in the Lower

House. The bill was enacted in October 2002 as the Responsible Procreation Program Act.

Approval was a significant step ahead, as it formalized incorporation of sexual and reproductive health issues into the agenda and demonstrated the existence of the political will required to take action. Yet, the debate and policy decisions remain a struggle between restrictive conceptions close to the Catholic Church and those who assert that reproductive freedom is a basic human right the State should ensure is exercised without coercion, violence or discrimination.

In December 2002 Guillermo Rodríguez-Melgarejo, Secretary General of the Argentinean Conference of Catholic Bishops, wrote to Health Minister Ginés González García -with a copy to President Eduardo Duhalde- that implementation of the Sexual Health and Responsible Procreation Act was "a dangerous move towards emphasizing the negative aspects" of the recently enacted regulation. The letter listed certain issues that should be reviewed in order to "safeguard important aspects of natural law and morals". It noted parental consent for minors; the need to explain that any drug or device that causes the death of an unborn human being "from the moment the egg is fertilized, including mechanisms that prevent implantation" is abortive; to respect the conscientious objections of health professionals; and to consider tubal ligation and vasectomy as mutilations that went against morality and the wholeness of individuals.

This interference with the role of government took place in the context of the swift implementation of the law and the unconditional support of First Lady Chiche Duhalde. Making its position clear, on 22 March 2003 the government enacted a Federal Health Agreement which included a Reproductive Health Program.

Since the lobby of the legislature and government had had no effect, Catholic foundations and NGOs

⁴⁹ *Página 12*, October 1995.

⁵⁰ Chiarotti et al., 1997.

launched aggressive legal action designed to prevent implementation of the law. These tactics were especially common in Córdoba, where the Church has been particularly strong since colonial times.

The Constitution of the City of Buenos Aires was enacted in 1996. In the process leading up to its enactment, Buenos Aires Assistant Bishop Héctor Aguer pleaded with the Constituent Assembly to leave sexual and reproductive rights off the Constitution, arguing that “expressions such as ‘responsible procreation’ and ‘reproductive health’ usually concealed an anti-birth intent based on the use of abortive methods”.⁵¹

The letters to legislators, the private meetings with members of the Legislature and the public appeals to the Christian spirit of Argentinean society were not enough to achieve its goals, but showed that the Church was ready to be relentless in its battle with the State and to use its influence to shape “a Catholic culture” and pressure politicians. In this they were supported by pro-life groups.

Even so, and perhaps owing to the progressive composition of the Legislature, sexual and reproductive rights made it into several chapters of the Constitution of the City of Buenos Aires.

On 2 August 2000 the Conference of Catholic Bishops issued “The Good News on Human Life and the Value of Sexuality”, a statement on sexuality and its preconditions within the legal framework. It says that marriage is indissoluble, refers to sexuality as procreation and advocates parental oversight of children’s sexuality. It defines the guidelines of what would subsequently become their leading strategy against the current legislation.

That year the City of Buenos Aires enacted the Reproductive Health Act. The Church lobbied legislators as angry Catholic school students crashed their offices. As with the federal law, the

Church said it opposed it “because its intent is to decriminalize and even legalize abortion”.⁵²

In the lead up to the 2003 presidential elections, women’s NGOs asked candidates to state their views on sexual and reproductive rights. Candidate and current President Néstor Kirchner advocated maternal and child health programs. A rather bland, traditional view, but at least he confirmed Ginés González García as Health Minister. González García was instrumental in pushing for the Reproductive Health Act, regardless of Catholic Church pressure.

Most other Argentinean religious groups did not issue an opinion on these matters. However, at the time the federal law was being debated, ecumenical churches publicly supported the majority who voted to pass the City of Buenos Aires Reproductive Health Act. A statement said that “social, cultural and religious pluralism is a reality in Buenos Aires. The majority decision respects and makes possible the responsible exercise of this diversity”, adding that “history teaches the dangers of trying to impose absolute, exclusive values on the whole of society, with disregard for diversity”, in clear reference to the Catholic Church. Noting that the Act enables a range of new sexual and reproductive rights, it writes that as churches they are duty-bound to provide education about “the values on which information and sex education provided in public hospitals will be based”.

d) Abortion

The Argentinean maternal mortality rate in 2001 was 43 per 100,000 live births, an average rate which conceals strong disparities.⁵³ Maternal mortality is due to abortion complications (31%), direct obstetric causes (53%), and indirect obstetric causes (16%).⁵⁴

Various sources estimate that some 350,000 to 400,000 abortions are performed every year in

⁵¹ *Página 12*, September 1996.

⁵² *Clarín*, 1 November 2002.

⁵³ Ministry of Health, 2002 in CEDES, 2003.

⁵⁴ *Ibid.*

Argentina.⁵⁵ The National Women's Council estimate stands at 325,000, or one abortion per every two births.⁵⁶ Checa and Rosenberg (1996) and Vinacur, Cartigiani et al. (MSAS, 1987) both put the figure at 350,000 to 400,000, suggesting that one in five pregnancies ends in abortion.

Legal Status and Political Action

Abortion is defined in the Argentinean Criminal Code as a "crime against life" carrying prison terms of from 1 to 4 years for a performer acting with consent; 15 years if performed without consent causing death, and 1 to 4 years for the woman who has the abortion.

Article 86 of the Code allows abortion if the mother's life is in danger provided "it cannot be avoided by other means" (without specifying what this means) or when pregnancy results from the rape of a mentally retarded or insane woman, which requires consent from a legal guardian (Criminal Code, Volume II, Title I, Chapter I).

Controversy surrounding the exact meaning of Article 86 could lead to a debate on a legal interpretation of this clause that could allow abortion in all rape cases.

"The pervasiveness of abortion in Argentina is extremely disturbing from the standpoint of public health and human rights. In 1997 the CEDAW Committee recommended a review of abortion legislation, but the State did not respond adequately. There was also no progress in implementing the Cairo Action Plan or its review (Cairo +5) as regards training and preparing health personnel to care for abortion complications where it is not legal".⁵⁷

Twelve abortion bills have been submitted to both chambers of Congress since 1983. Two tried to

repeal the provision allowing some abortions, five tried to improve its wording, three tried to legalize abortion, one tried to decriminalize it and one sought to entrench protection of the unborn in the Criminal Code. None was passed.

Speaking at the 4th Meeting of Latin American Heads of State held in Colombia in March 1994, President Carlos Menem stated his full alignment with the Vatican in that life began at conception. Yet, he failed to convince other leaders to issue a joint statement against abortion.

Women for Freedom of Choice (MADEL) was founded in 1994 in response to a conservative alliance set up to fight abortion and sexual and reproductive rights.

In 1994, at the time of the Constitutional Reform debate, President Menem proposed a clause about "life from conception to natural death". His crusade, spearheaded by Justice Minister Rodolfo Barra, reflected the government's alliance with the most backward sectors of the Catholic Church and shaped the position later taken to the Cairo Conference on Population.⁵⁸

MADEL's response was based on the principles that the Constituent Assembly had no mandate to decide on this issue; that abortion is a complex, multifaceted issue requiring broad, inclusive, pluralistic debate; that it needed to be recognized as an issue of public health and self-determination; and lastly, that true respect for pluralism and diversity required legislating for all of society rather than for the ethical or religious beliefs of any one group.⁵⁹

Despite Church opposition, the women's movement succeeded in keeping the clause off the Constitution and leaving the abortion debate open

⁵⁵ The women's movement (for example, the Forum for Reproductive Rights and Women for Freedom of Choice) has been asserting for some time now that 350,000 to 400,000 abortions are performed every year in Argentina.

⁵⁶ National Women's Council, 1994.

⁵⁷ CELS; CLADEM; FEIM; ISPM, 2002 quoted in CEDES, 2003.

⁵⁸ Bellucci, 1997; Gutiérrez et al., 1998.

⁵⁹ Gutiérrez et al., 1998.

for a future occasion when the whole of society could participate.

This debate focused on the view that no one should intervene to end the life of an embryo, and the opposing view that under certain circumstances such intervention is justified. Also at issue was the notion that the fetus is a moral subject since conception and a biological, social, and moral “construct”, which includes the decision as to how, when and under which subjective and material conditions to have a child. The women’s movement interpretation focused debate on the female body as the domain where patriarchal power is traditionally exercised, emphasizing their status as individuals (absent in the fetus) and reaffirming their basic right to make decisions about their own bodies. These differences, of a fundamental nature to the Catholic Church, led to virulent debate and, in some contexts, to violent confrontations.

MADEL replied to the fictitious conflict suggested by the conservative alliance by making it clear that “we all stand for life”, pointing out that attempts to include the clause in the Constitution were undemocratic as the proposal had not been consulted or debated. In addition, it flew in the face of constitutional principle since it contravened international commitments such as the Convention on the Elimination of All Forms of Discrimination Against Women and the conclusions of the World Conference on Human Rights (Vienna, 1993), and disregarded the pronouncements of women at national, regional and local events since 1986.

A true defense of life, MADEL said, required policy that met the needs of women and an active government role in improving sexual and reproductive health. This line stood in stark contrast to the moral arguments of the Catholic Church, to which the defense of life meant fetuses had the status of an individual and thus were entitled to the same rights as women. The underlying argument was that women should

naturally want to be mothers, and the choice is not for them or the couple to make. Yet appeals to a “natural order” preclude all debate and lead to a zero-sum logic whereby consensus is next to impossible. The Church’s conceptual and activist apparatus against abortion and sexual and reproductive rights is in fact directed against women’s autonomy and sexuality.⁶⁰

Lastly, MADEL demanded entrenchment in the Constitution of the Pact of San José banning the death penalty -which President Menem regarded as an effective tool in dealing with crime- and guaranteeing the right of men and women to freely and responsibly make reproductive decisions through access to information and sex education, thus effectively helping avoid unwanted pregnancies.

MADEL subsequently published several communiqués in the same vein. “Whose life are we talking about?”, for example, related the cruel reality faced by women with no access to contraception or quality pregnancy, delivery, or postpartum care. It noted unsafe abortions and resulting deaths and the absence of AIDS, STD and sex education programs, asserting that “freedom to choose over one’s body, reproduction and sexuality is a basic human right” -a key argument in a country with a recent past of gruesome human rights violations. The MADEL letter reaffirmed the need for women’s self-esteem and emancipation.

Another of MADEL’s key issues was that a government that had given a blanket pardon to perpetrators of egregious human rights violations hardly qualified as a “defender of life”. Many victims of the military regime (1976-1983) were pregnant women who delivered in captivity and had had their babies taken away, often for adoption by their own captors. Such lack of concern about the concrete lives of thousands of citizens removed all ethical and moral claim to the status of “defenders of life”. As MADEL argued, moral standards cannot be legislated.⁶¹ Also at issue was

⁶⁰ Gutiérrez, 1997.

⁶¹ Fernández Buey, 2000.

inequality and hypocrisy, as unsafe abortion is usually the exclusive lot of poor women. Among the many effects of decriminalization there would be a drop in maternal mortality and morbidity rates.

This debate helped show that “while some -the Catholic Church- implicitly assume that all of society should abide by their moral convictions about abortion, including its criminalization, the women’s movement accepts the fact of moral disagreement, respects women who oppose abortion, recognizes the violence involved in abortion itself, is critical of frivolous notions of abortion, and demands decriminalization in a large number of scenarios”.⁶² In the end, able strategizing and cohesive work successfully stopped the government and the Church.

Yet, the Catholic Church soldiered on. In 1996, bishops reiterated their abortion stand in a new statement purporting to speak on behalf of society as a whole: “Our country has always valued life as a gift and preserved it with the concern of its laws and the gentleness of its best care. However, we notice with great concern that, under the guise of responsible parenthood, anti-birth -and even abortive- approaches and techniques are being adopted by legislatures, thus destroying the gift of life and offending the dignity and intimacy of individuals”⁶³. This statement was followed by others containing similar arguments.

Meanwhile, the debate about decriminalizing abortion remained a key point in the women’s movement agenda. A survey by a women’s NGO showed that “Of 2,000 respondents, 71% agree with abortion if ‘the mother’s health is in danger’, 65% when resulting from rape, and 45% if the fetus is abnormal. Only 20% agree abortion should be allowed for socioeconomic reasons and 21% if the woman does not want the child.” This

ratio holds when correlated by gender, age and sample size. However, when disaggregating by education there is a small variation. Abortion as part of women’s autonomy is met with some degree of acceptance among educated, urban respondents.⁶⁴

Both the women’s movement and the Ombudsman for the City of Buenos Aires have filed several constitutionality challenges. These actions seek to remove legal authorization requirements for abortions allowed in the Criminal Code and performed at public hospitals.

In 2001 the Argentinean Supreme Court authorized induction of labor for a woman carrying an anencephalic fetus.⁶⁵ Based on this, several lower courts authorized induced labor in other cases of anencephaly. Court Ruling No. 1370/01 established: “Given the irreversibly fatal outcome expected from this pathology and the inability of science to assist, a mother’s rights to protect her psychological and physical health, and all other rights recognized her by treaties granted constitutional standing, stand in full force”.

In all cases the Catholic Church expressed its disagreement, offering spiritual and material support for the woman and/or couple involved.

The international scenario was a key part of the Catholic Church strategy. Argentinean delegations to both at the Beijing Conference (1995) and Beijing +5 in New York (2000), carried instructions from the Foreign Ministry to assert its position on the right to life since conception. In 1998 the Church urged other countries to follow Argentina’s example and proclaim a “Day of the Unborn Child”.

Protestant churches expressed their pastoral concern over abortion and other sexual and

⁶² Ibid.

⁶³ *Página 12*, August 1996.

⁶⁴ ISPM, 2001.

⁶⁵ A malformation involving the absence of brain hemispheres, affecting all dependant structures and leading to a certain death after separation from the womb.

reproductive issues and suggested measures to provide information and sex education in order to avoid unwanted pregnancies that may lead to abortion. To achieve this they proposed a carrot-and-stick system making abortion less appealing and motherhood less risky, including provision of adequate health care and lodging for women having unwanted pregnancies.

During the 1994 Constitutional Reform debate the Jewish community stated that their faith categorically forbids abortion as the killing of a living creature. This statement was from conservative leaders and did not represent all Jewish groups; as with Catholics, there are differences of opinion on the issue.

Muslims stated that Islam forbids abortion regardless of circumstances and that women who abort face fines as well as divine retribution (*La Nación*, 23 May 1994).

These statements had no impact on the agenda on the subject.

In favor of the proposed constitutional clause were the Justicialista Party (PJ), the Union of the Democratic Center (UCD) and some provincial parties. Opposing it were the Radical Civic Union (UCR) and the *Frente Grande* (FG, a Justicialista splinter group).

During the 1996 Buenos Aires elections no candidate proposed including the abortion issue in party statutes. In 1998, all candidates running for president took a stand against abortion. A controversial exception was FREPASO candidate Graciela Fernández Meijide, who spoke in favor of abortion, then took her statement back as the elections drew near.

On this issue as well as in others, politicians indulge in “double discourse”. Many of them will privately agree on the right to abortion but avoid public statements at election time.

In a 2003 survey of presidential candidates, Socialists agreed on pushing for policies to address maternal morbidity and mortality caused by backstreet abortions; the Radical Civic Union proposed expanding legal abortion to cases of rape and fetal malformations incompatible with life; the United Left (IU) favored regulating allowable abortions and the legalization of abortion; the Movement for Integration and Development (MID) opposed abortion and expanding the legal framework and proposed adoptions instead, in line with the Catholic Church. Justicialista candidate Carlos Menem repudiated abortion and stood fast with the Catholic Church position. Candidate and current President Néstor Kirchner skirted the subject while ARI head Elisa Carrió caused a controversy in her party as she stood against abortion while several ARI legislators were in favor; the two positions now coexist.

e) HIV/AIDS

AIDS cases in Argentina stood at 21,865 as of May 2002. Factoring in the lag in case reporting, estimates put the actual figure at 25,411 with an accrued incidence rate of 60.1 infected per 100,000 individuals.⁶⁶ Children under 13 represent 6.9% of the total, almost exclusively perinatal transmission cases.⁶⁷

Countrywide AIDS cases disaggregated by sex jumped from 417 men and 62 women in 1990 to 1,545 men and 424 women in 1996. According to *Decidamos* magazine (1997) the average age of infected individuals increased from 30 for men and 26 for women to 31 and 27, respectively. The increase in the number of AIDS reports for women and the growth in heterosexual transmission confirm the trend seen elsewhere pointing to women as a particularly vulnerable group.

As in the rest of Latin America, the AIDS infection rate among Argentinean women has grown rapidly in the past decade, increasing fourfold from 1991 to

⁶⁶ Ministry of Health, 2002.

⁶⁷ CEDES, 2003.

1994. Although the number of infected men remains higher, the speed of infection among women is cause for concern. A current breakdown of confirmed cases in individuals aged 12 and older stands at 78.72% for men and 20.62% for women. The male-female ratio went from 20.4 in 1988 to 3.8 in 2002.⁶⁸

Although for both sexes the 25-34 age group is hardest hit, women become infected at younger ages. Second comes the 13-24 age group for women and 35-39 for men.⁶⁹

The largest number of male cases falls within the 20-39 age group. Most female cases are in the 1-4 and 15-29 age groups, increasing in over 10 percentage points as compared to men. These figures suggest that HIV infection is occurring mostly in adolescence and through perinatal transmission. This is supported by increasing numbers of HIV positive women in the last decade, which has changed the male-female ratio from 1/12 to 1/4 and even less in high-impact areas.⁷⁰

Legislation, Public Policy and Political Action

Prevention policies have been in effect since the start of the decade. The National AIDS Act (Law 23798), enacted in 1990, set out measures for AIDS detection, research, diagnosis and treatment and declares prevention to be in the national interest. Decree 1244 (1991) incorporated AIDS prevention into primary through tertiary education programs. In the City of Buenos Aires, the Departments of Education and Health, with assistance from UNICEF and the Faculty of Psychology of the University of Buenos Aires, implemented a Sexual Health Promotion and AIDS Prevention Program for secondary public school students. The program uses information and discussion workshops and drama.

In 1992 the Ministry of Health set up a National Human Retrovirus and AIDS Program providing

free medication to low-income patients; it also conducts virus research. Resolution 528 required health insurers to cover AIDS prevention while an Annex to Resolution 454 set new condom quality standards. In 1995, Decree 908 set new rules for HIV testing in the Armed Forces.

In 1994 the Province of Buenos Aires enacted Law 11506 on AIDS prevention, research and treatment. The Province of Santa Fe passed Law 10339 in 1989 and Law 11460 in 1996.

In 1996, Law 24754 required private health insurers to match the range of services provided by the public sector. In 1997, Resolution 105 defined perinatal transmission while Resolution 625 set mandatory HIV/AIDS coverage guidelines for both public and private health insurers.

Lastly, Law 25673 of 2002 created a National Sexual Health and Responsible Procreation Program designed to help contribute to prevention and early detection of STDs and HIV/AIDS, identify unsafe behavior and contain at-risk groups. The Program works with community groups in STD and HIV/AIDS education, counselling and early detection, and provides diagnostic, treatment and rehabilitation services.

Unlike other sexual and reproductive health issues, in HIV/AIDS there is significant State intervention.

As in contraception and abortion, the Catholic Church reacted in accordance with its doctrine, using its clout with divisions of the Health Ministry to obstruct condom use drives. In fact, during the de la Rúa administration the Church succeeded in pressuring the Ministry into halting distribution of a substantial consignment of condoms. LUSIDA Program Director and feminist Mabel Bianco had a fierce media confrontation with Catholic leaders on these obstructive tactics. The Church's proposed prevention strategy revolved around

⁶⁸ Ministry of Health, 2002.

⁶⁹ Ibid.

⁷⁰ Durand and Gutiérrez, 1997.

encouraging celibacy and providing information and education on faithful, responsible love within marriage. This position overlooks the actual facts of sexuality, especially in teenagers, runs counter to the respect for life the Church alleges to profess, and stops at providing “compassionate care” for carriers and patients and their families.⁷¹

Evangelical Protestants have been emphatic on this issue. They released *AIDS and Sex Education*, a position paper stating that sex education should be provided through all “...stages of growth in order to build a positive attitude toward life, the body, and relationships, and to help schools provide ongoing, honest and real guidance and advice to allow teenagers to make their own decisions”. To avoid infection, they propose encouraging monogamous marriages, celibacy outside marriage and avoidance of intravenous drug use. They do not promote condom use. Their proposed pastoral activity includes provision of compassionate hospitality and patient care services.⁷²

These recommendations, however, stand in the way of true prevention, as they ignore the active sexuality of adolescents and international trends that show an increase in heterosexual infection. Unlike abortion, AIDS has not generated major confrontations between the social movement and the Catholic Church, except for prevention campaigns.

f) Domestic and Gender Violence

Domestic and gender violence is a high-profile issue. Following the return of democracy in 1983, feminists and women's groups were instrumental in placing the issue on the public agenda. Given its magnitude and significance, women's demands were not met by strong resistance from political or religious circles. The Catholic Church understands the problem and provides pastoral care and assistance to victims in vulnerable areas.

Legal Status and Political Action

The Constitution makes no specific mention of the right to bodily integrity. In 1999 reforms to the Criminal Code removed “crimes against decency” and added “crimes against bodily integrity”. Prison terms for sexual abuse of minors under 13 were made mandatory. The Code redefined statutory rape from “sexual intercourse with a woman of decent character over 12 and under 15 years of age” to “person under 16”. The ancient regulation allowing rapists who married their victims to go free was struck, but agreements with the accused are still possible. Argentinean criminal law does not recognize marital rape. Sexual harassment is regulated in the section on rape in the Criminal Code.

Law 24417 on Domestic Violence was enacted in 1994. Domestic violence was defined as injuries and/or physical or psychological abuse of a family member by another. Regulations are contained in Decree 2356 (1996).

In 2001 the Argentinean Senate received a bill on labor violence drafted by the Women's Program of the Senate Justicialista Caucus and the Equal Opportunity Department of the Public Employees Union. The bill proposed to make sexual harassment an indictable offense. Current employment contract law contains no regulations on the issue.

The National Women's Council follows up on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on behalf of the Argentinean State. CEDAW attained constitutional standing in the 1994 reforms. The Council also monitors compliance with the Convention of Belém do Pará, entrenched as domestic legislation by Law 24632 of 1996.

Government policy has essentially dealt with welfare issues and with providing psychological and legal advice at public facilities.

⁷¹ Conference of Catholic Bishops of Argentina, 1991.

⁷² Statement of the Lutheran World Federation, 1988.

While some NGOs have received service delivery grants, there are not enough prevention programs directly reaching target groups and resources for cases where lives may be at risk are scarce. Service providers use a range of methods and approaches, some of which are not always gender-aware or address the particular needs of the women seeking help. Women's shelters exist only in some districts - while one per 10,000 individuals is recommended- and its continuance is in question due to budgetary and political issues.

There is also a dearth of public policies and resources for victim rehabilitation (i.e., housing, employment, psychological and follow-up needs), which helps reinforce the cycle of violence and transmission from one generation to the next. This also hinders training and education of police, military, justice system and penitentiary personnel.

There is also a need for proper record-keeping capable of delivering publicly accessible quantitative and qualitative countrywide statistics. Services are not adequately supervised, and there have been no systematic mass campaigns.

Decree 235 of 1996 required hospitals, community legal centers, Children and Family Councils, National Women's Councils, the Women's Office of the City of Buenos Aires and school districts to establish information and counselling centers on physical and psychological violence. Most provincial legislation contains similar requirements.

In 2001 the Province of Buenos Aires passed Law 12764 on Sexual Harassment. Of 24 provincial districts, only Salta, Formosa, and Santa Cruz have yet to enact laws on domestic and/or sexual violence and exploitation. These propose strategies for prevention of physical, psychological and sexual violence against women. Precincts for women have been created to process reports of rape and/or domestic violence.

The Constitution of the City of Buenos Aires provides protection for victims of violence in a

special chapter devoted to children and adolescents, while the Constitution provides for specialized care for women victims of violence. City of Buenos Aires Bylaw 47506 makes sexual harassment an offense subject to penalty or suspension from employment.

Subsequent to Cairo and Beijing, in 1996 the government set up an Ad Hoc National Commission to follow up on the FWCW Platform for Action. Seminars and workshops were conducted throughout the country, emphasizing violence against women.

Argentina signed the CEDAW Optional Protocol in February 2000. Yet, on April 30, 2002 the government withdrew a ratification bill from the Senate. The Catholic Church, operating within the high ranks of government, succeeded in persuading then-President Eduardo Duhalde and Foreign Affairs Minister Carlos Ruckauf to object on grounds that the Protocol would "impinge on our sovereignty and did not contain adequate safeguards about interpreting it as paving the way for legal abortion". This once again illustrated the breadth of Church-State relations. Catholic Bishops sat at the time in the Task Force convened by Duhalde to propose a solution to the national crisis underway since December 2001.

The Catholic Church lambasted a Comprehensive Assistance Program for Victims of Sexual Offenses announced at the time by the City of Buenos Aires. The Program offered emergency contraception to victims; to the Church, this was tantamount to government-sanctioned abortion.

g) Sex Education

As in matters of sexuality, education is a key topic of Catholic Church concern. In 1985 then President Raul Alfonsín proposed an education reform and convened a National Education Congress to discuss it with public participation. However, the process was hijacked by the Catholic Church and denominational schools, effectively blocking democratic debate.

Under the administration of President Carlos Menem, following enactment of a Federal Education Act instituting educational decentralization, a group of experts started the arduous process of developing new basic curriculum contents. When their proposal was ready and published, the Catholic Church -which had participated in the process and cleared the contents- objected to the concepts of gender and family, arguing they ran counter to basic principles of Christian education and to the views of the Argentinean people. The government shelved the proposal.

Legal Status and Political Action

The 1993 Federal Education Act established that educational policy guidelines should promote equal opportunity and non-discrimination, elimination of discriminatory stereotypes in teaching materials, and comprehensive, continuing education for men and women.

The Ministry of Education promotes debate on sexuality in Grades 7-12 through Youth Activity Centers in the provinces of Córdoba, Santa Cruz, Chaco, Tucumán, and Jujuy.

The Constitution of the City of Buenos Aires recognizes and guarantees an educational system guided by the principles of freedom, ethics, solidarity, and equal opportunity. It also introduces human rights and sex education into the core curriculum. Articles 23 and 24 establish gender as a curricular component. The City has also enacted Law 474 on Equal Opportunity. In 2002, the City government solemnly signed a Statement of Commitment toward equal opportunity.

In Formosa, Law 25273 bans schools from discriminating against pregnant students. In a province facing critical sexual and reproductive health issues, notably teenage pregnancies, the law attempts to fight the school dropout rate and subsequent reinforcement of the poverty cycle.

In 1987 the City of Buenos Aires incorporated sex education into the School Health Program.

Sex education and sexual and reproductive rights are recognized in the Constitution of the City of Buenos Aires since 1996. The City Council for Children's and Adolescent Rights conducts sexuality workshops in secondary schools with participation from students, parents, and teachers.

The Catholic Church states that sex education imparted in denominational schools should be based on an education for love that safeguards the family unit as its essential core and promotes its social role.⁷³ Sexuality is to be understood as communion and is truly human only as a comprehensive part of love between man and woman. A love which both expresses and promotes the union of man and woman must also be prolific, thus marriage is the only adequate domain for intercourse (CEA, 2000). In this statement the Conference of Catholic Bishops forcefully opposed sexual and reproductive rights and the proposed Civil Union Bill.

Putting the Church position in practice, members of pro-life groups have asked parents "to put school administrators on notice that they will not stand for sex education programs running counter to their principles".

Evangelical Protestants defend the inalienable right of parents to educate their children about sexuality. They emphasize the parental role in preventing teenage pregnancies and resulting abortions, but agree with sex education in schools. On gender equality, they stress the importance of access to education and birth control methods that recognize and reflect the dignity and freedom of women, in the same way that society grants it to men. They express pastoral concern over women being considered more a subject of legal provisions than a maker of ethical reproductive decisions.

Candidates standing in the presidential elections of May 2003 commented as follows: Carlos Menem of the Justicialista Party emphasized the parental right

⁷³ CEA, 2000.

to choose their children's education; Alfredo Bravo of the Socialist Party, Leopoldo Moreau of the Radical Civic Union, Patricia Walsh of the United Left and Dr. Zaffore of the MID all agreed on the need to provide sex education in schools. Ricardo López Murphy of the Recrear Party stressed the importance of education in preventing teenage pregnancies.

h) Civil Union Act

The Civil Union Act enacted by the Legislature of the City of Buenos Aires in December 2002 deserves special mention due to the virulent reaction it elicited from the Catholic Church. The bill, promoted by the gay community, creates a "public registry" for unions irrespective of gender or sexual orientation. Couples of at least two years' standing are now entitled to social benefits, compassionate leave to care for ill partners and Buenos Aires government subsidies or pensions:

The Catholic Church is noted for its uncompromising condemnation of sex out of wedlock and homosexual practices. During debate on the proposed bill, Catholic groups blamed gays for the spread of AIDS and argued that homosexuality was abnormal, sinful, and a disease that can be cured. Armed with these views, they sent legislators a brief prepared by the Catholic University of Argentina. The brief disparaged the concept of gender and reflected about the ills that enactment of the bill would unleash on society. Their strongest argument was about the impending dissolution of the family unit and constitution of "abnormal" families where adopted children would be socialized into abnormality.

In a clearly intimidating gesture, Cardinal Jorge Bergoglio demanded that President Fernando de la Rúa veto enactment of the bill. Having failed, on the day of the debate Catholic school students stormed the visitors' gallery and hurled abuse at legislators who favored the bill.

Evangelical Protestants were more tolerant, considering that homosexuals are deviants and

dupes of the devil deserving of mercy. They issued no public statement on this law.

5. Conclusions and New Questions

In a classic perspective, restricting religion to the private domain and its withdrawal from the public arena is a condition for the emergence of politics. Separation of the various domains of social endeavor is a consequence of modern views that insist on differentiation of institutions under specific rules of the game. On the limits of this logic, religion and politics may appear to be hopelessly at odds. Yet, in Argentina as elsewhere such reasoning has proven less than useful. Historical situations where religious and political practices and symbolism did not impact the opposing side are hard to find.

However, we believe that the Catholic Church offensive on sexuality is, as discussed here, demonstrative of a clearly fundamentalist stance.

This is evident in the dual discourse and double standard which purports to stand for a preferential option for the poor while condemning at least half of the population to conditions that reproduce the poverty cycle and stand in the way of a fair society where gender equality can flourish. This is a Church which uses its links to the State and connections to political power to block policy, laws and initiatives that might allow the effective exercise of sexual and reproductive rights.

What was new and unexpected in the '80s was not the emergence of new religious movements but the retaking of a public role in industrialized countries by traditional faiths hitherto pushed by modernity theory into an increasingly irrelevant role.⁷⁴ Social movements coming into the scene are either religious or defy, in the name of religion, the legitimacy and autonomy of the State and the market economy. Religious institutions and organizations are no longer content to be restricted to pastoral activities and break through

⁷⁴ Casanova, 1994.

the limit between the public and the private, challenging both States and markets. Faiths worldwide are entering the public domain and the political arena, not only to defend traditional principles as in the past, but to participate in the struggle to define the new frontier between public and private, between legality and morality, between individuals and society, between family, civil society and state and between nations, states and world systems.

Both in Argentina and Latin America, effective separation of Church and State and secularization are necessary preconditions to debate sexuality in a truly democratic environment where citizens are respected as adults capable of making decisions about their own bodies.

As women we demand laws and policies because we -especially the poor among us- are dying from preventable causes and because when we demand sexual and reproductive rights, we also demand autonomy, citizenship, and emancipation.

These facts are relevant when running against the limits. Patriarchal society and conservative elements within it will not surrender without a fight. By organizing and participating, women will help unleash an empowerment process that will facilitate realization of these rights as part of a broader political strategy where sexual and reproductive rights are in turn part of a larger demand for dignified living conditions.

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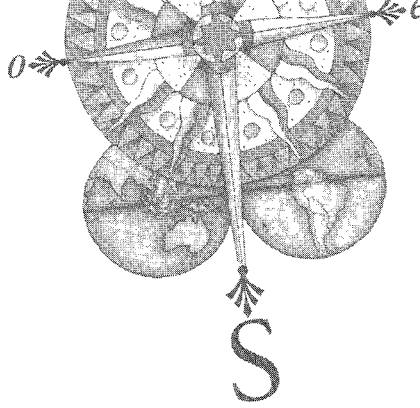
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SEXUAL AND REPRODUCTIVE RIGHTS IN COLOMBIA: BREAKING THROUGH FUNDAMENTALIST FORCES, VIOLENCE AND WAR

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*Another world is possible.
What is more, a better world is possible.*
Feminist Marcosur Campaign

1. A Theoretical Review of the Issues

1.1 Religious Fundamentalism

While important, a thorough review of the conceptual basis for this report is not its focal point. This section will therefore only briefly review a few key concepts, notably religious fundamentalism.

Generally speaking, fundamentalists are the ideologues and militants who seek to impose their understanding of tradition, of what is good and true in several areas, upon society. Their “fundamentals” include unbending moral codes and doctrines, unquestionable philosophies, and above all, a self-proclaimed supreme authority and wisdom.

It is widely accepted that fundamentalism is now part of most leading religions. Although the term

originally referred to Protestant Christians of the late 19th century and early 20th century who promoted a literal or “fundamental” interpretation of the Bible,⁷⁵ in the second half of the 20th century on and especially the last two decades it has become a larger religious and political phenomenon involving Islam, Hinduism, Judaism, Buddhism, Confucianism and several Christian faiths, notably Catholicism.

Despite its differences, religious fundamentalism shares a revitalization of conservative orthodoxy based on the supremacy of religious values in family, social and political life -the primacy of what followers consider as the “fundamentals”. They therefore consider secularization, or threat thereof, as a leading enemy.

Another tangible element in common is their drive to return to patriarchal systems and the traditional

* Health Rights and Ethics Development Corporation.

⁷⁵ Ravindran, T. K. Sundari, in *Fundamentalism, Women's Empowerment and Reproductive Rights*. Reproductive Health Matters, London, 1997.

subordination of women. Misogyny and homophobia, an ideal society controlled by heterosexual males and the fear of social and state secularism provide the ideological grounds for today's complex religious fundamentalisms.

While religious fundamentalism stands against modernity, opposition is selective, showing that it is precisely interaction with it that has allowed it to grow. The core aspects of their activity could not have possibly emerged in cultures unexposed to the modern world.⁷⁶ They accept rational thought whenever it serves their purposes; they use technological innovation to disseminate their ideology, and take advantage of modern methods to secure financial resources. Their opposition to modernity focuses on specific issues of religious and policy interpretation, mostly as regards the family, sexuality and women's lives. There is no room for pluralism, tolerance, respect for diversity and autonomy or true democracy in fundamentalist ideologies and practices. This is what their opposition to modernity entails.

However, in some faiths fundamentalist ideology coexists with progressive ideas such as fighting poverty, cultural and economical imperialism and consumerism, opposition to war or, as in the case of the Colombian Catholic Church, working for peace. While such contradictions require an analysis beyond the scope of this paper, it should be noted that, as Kissling⁷⁷ writes, this duality, in the particular case of the Catholic Church in some Latin American countries, makes it that much harder for progressive people to understand and oppose Catholic fundamentalism, even though it threatens progress in such crucial areas as women's rights -sexual and reproductive rights in particular- and secular government.

The danger posed by fundamentalism to human progress has led many individuals to denounce it and moved many groups and States to devise

strategies to counteract its regressive ideology and destructive action. We note, for example, a European Parliament resolution calling on Member States to oppose religious and other fundamentalisms and adopt concrete measures to assist women victims and reduce their influence within and without the Union. Pioneering groups such as Catholics for a Free Choice and Women Living Under Muslim Laws work resolutely to denounce religious control of women's lives and reaffirm their dignity and rights.

These and other experiences require a new social order, one in which democratic societies can guarantee secularization, understood as separation between political/public affairs and religious issues belonging in the private domain; a modern order where true Church-State separation ensures protection of women's basic rights and freedoms through laws, policies and plans uninfluenced by religion.

1.2 UN Conferences of the Nineties

Worldwide reassertion of human rights in general and women's rights in particular, as well as the adoption of a holistic, rights-based perspective and clear stands on sexual and reproductive health are among the most significant achievements of UN conferences held in the '90s. A crucial aspect leading up to these conferences was the mobilization of women around the world to plan strategies designed to guarantee that their countries would support women's interests and rights in UN programs and platforms for action.

Unlike treaties, agreements adopted at international conferences are not binding. Yet they are frameworks States must heed in the design and implementation of policies and programs. This is even more possible since commitments made at UN conferences have concrete rather than abstract goals and contain precise progress indicators and deadlines.

⁷⁶ Martin E. Marty and R. Scott Appleby (Eds.) *Fundamentalisms Observed*, University of Chicago Press, pp. 872.

⁷⁷ Kissling, F. *Fundamentalism and the Roman Catholic Church*. See www.muieresdelsur.org.uy/campania/foro1a.htm. People are Fundamental Campaign Against Fundamentalisms, December 2002.

The Nineties: UN Conferences and Sexual and Reproductive Rights

UN Conference on Environment and Development - <i>Rio de Janeiro</i>	1992
World Conference on Human Rights - <i>Vienna</i>	1993
International Conference on Population and Development - <i>Cairo</i>	1994
World Summit for Social Development - <i>Copenhagen</i>	1995
Fourth World Conference on Women - <i>Beijing</i>	1995
Second UN Conference on Human Settlement (Habitat II) <i>Istanbul</i>	1996
World Food Summit - <i>Rome</i>	1997

1.3 Principles and Agreements Arising from UN Conferences, with emphasis on Vienna, Cairo and Beijing

Commitments contained in the action plans and platforms adopted by some UN conferences in the '90s are highly germane to sexual and reproductive health and rights.

Among the many significant outcomes of these international conferences, six are especially worth highlighting:

1. They approach sexual and reproductive health and rights issues as part of global, equal and sustainable development, openly acknowledging that development is not possible without sexual and reproductive rights and unless serious issues affecting the population, especially women, girls and adolescents, are addressed.
2. They explicitly recognize women's human rights as a comprehensive part of human rights,

notably after the World Conference on Human Rights held in Vienna, 1993. This recognition, now in reference to sexual and reproductive rights, was embraced at the International Conference on Population and Development (ICPD), thus helping define "a global consensus about the link between population policy and sexual and reproductive health and rights..."⁷⁸

3. The rights-based approach ratified by the Fourth World Conference on Women. Paragraph 97 of the FWCW Platform for Action states that "The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence." Equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behavior and its consequences.

4. Having started an open debate, however distorted by some delegations, about the gender-differentiated impact of sexual and reproductive health. In other words, having introduced a gender perspective into policy and action planning. Most of the sexual and reproductive health and rights language used in Vienna, Cairo, Beijing and Copenhagen is gender-oriented, even if gender did not figure as prominently in issues of employment and poverty.

The gender perspective that permeated most of these conferences led to agreement on the relevance of women's empowerment and men's participation and responsibility in all issues concerning sexuality and reproduction. Paragraph 4.27 of the ICPD Program of Action is particularly illustrative of this.

5. The life cycle perspective. The ICPD and Social Summit Programs of Action as well as the FWCW Platform for Action⁷⁹ emphasize the need for a

⁷⁸ Family Care International. Briefing Cards on Sexual and Reproductive Health. New York, 2000.

⁷⁹ ICPD Program of Action, Par. 6.17; 7.2; 7.46; 8.3. Social Summit Program of Action, Par. 36. FWCW Platform for Action, Par. 92.

women's health perspective centered on her entire life cycle. Paragraph 94 of the FWCW Platform for Action states that "Women's right to the enjoyment of the highest standard of health must be secured throughout the whole life cycle in equality with men. (...) Good health is essential to leading a productive and fulfilling life, and the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment."

6. Having adopted complex and controversial conceptual definitions such as sexual health and reproductive sexual and reproductive health and rights.

1.4. General Concepts and Commitments

Following the primary focus of the South-South Project, below is an outline of relevant concepts and commitments arising from the Action Programs and Platforms adopted at the UN conferences above.

Sexual Health

Sexual health was included within the general definition of reproductive health adopted at the ICPD, specifying that its purpose is "...the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases." (ICPD, Par. 7.2).

In both the ICPD Program of Action and in the FWCW Platform for Action, States committed to take concrete steps to promote and protect sexual rights, including full respect for personal integrity in matters of sexual relations. They also committed to a comprehensive perspective ensuring access to a complete range of information, education and orientation services on sexual and reproductive health, responsible parenthood and the prevention and treatment of sexually transmitted diseases and HIV/AIDS, to all individuals and couples of appropriate ages, during their entire life cycle. States expressly committed to providing medical

and mental care for girls and women of all ages who have undergone any form of violence. (ICPD Principles 8, 7.6, 7.16, 7.24, 7.33, 8.35; FWCW Pars. 106, 107, 108).

Reproductive Health

"Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. [R]eproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive health and well-being by preventing and solving reproductive health problems." (ICPD Par. 7.2)

As per the above, States committed to guaranteeing "...the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant." (ICPD Par. 7.2; FWCW Par. 94, 97).

Sexual Rights

The Beijing Conference marked the first time that the concept of sexual rights appeared in official UN documents. The Beijing Platform for Action stated that sexual rights include the human right of women to have control over certain aspects related to their sexuality, including their sexual and reproductive health, and to decide freely and responsibly on these matters "free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction,

including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behavior and its consequences.” (FWCW Par. 97).

Reproductive Rights

“[R]eproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health.” States also committed to “...the promotion of mutually respectful and equitable gender relations and particularly to meeting the educational and service needs of adolescents to enable them to deal in a positive and responsible way with their sexuality.” The overall commitment of States to reproductive rights includes ensuring, through adequate strategies and comprehensive health care services, universal access of individuals and couples to sexual and reproductive services, including family planning, and most importantly, to emergency obstetric and maternal services, mainly in areas that lack adequate services. (ICPD Par. 7.2, 7.3, 7.4, 7.5, 8.3; FWCW Par. 106; WSSD Par. 36, 37, 39).

1.5. Abortion

Among key issues debated in Cairo, Beijing and Copenhagen were reduction of unwanted pregnancies, safe motherhood and unsafe abortions. All three conferences set goals to reduce maternal mortality and morbidity and bring down the number of deaths from unsafe abortions (WCHR Program 47; ICPD Par. 8.20; WSSD Commitment 6).

One of the most frequently cited rights at both the ICPD and FWCW was reproductive autonomy, a woman’s right to control her fertility and decide

on reproduction issues free of coercion, discrimination and violence, in addition to the right to access a wide range of adequate sexual and reproductive health care services (ICPD Principles 4, 7.3, 7.4, 7.5; FWCW Par. 95).

The ICPD Program of Action states: “All Governments and relevant intergovernmental and non-governmental organizations are urged to strengthen their commitment to women’s health, to deal with the health impact of unsafe abortion as a major public health concern and to reduce the recourse to abortion through expanded and improved family-planning services.” It also emphasizes that they must provide ready access to comprehensive information and counseling for unwanted pregnancies; to post-abortion complications care; to safe abortions where abortion is not against the law, and to education and post-abortion counseling, including family planning. (ICPD Par. 8.25).

The WCHR, the WSSD and the FWCW also called for action to reduce unsafe abortion and guarantee safe abortion wherever legal. Several UN conferences called for a revision of laws and institutions that prevent men and women from exercising their reproductive rights. A crucial commitment on abortion legislation was made in the Beijing Platform for Action as States agreed to review their legislation as per their obligations on women’s health, and most importantly, to review laws penalizing women who undergo illegal abortions (FWCW Par. 106).

2. The Difficult Transition From Confessional To Secular State

2.1 Overview of Concordat and Constitutional Period

In 1887, following enactment of the Constitution of 1886, the Conservative government of Rafael Núñez and the Vatican signed a Concordat recognizing Catholicism as official faith. The Concordat granted the Catholic Church substantial influence over education and marriage and a range

of civil and financial privileges. The Liberal Party, Colombia's other major political force, accepted the Concordat despite avowed criticism of Church involvement in these issues.

Liberal ideas had an impact on the constitutional reforms of 1936, which removed references to God from the Constitution, withdrew recognition of the Catholic Church as "key to social order" and abolished many of the privileges granted by the 1886 Constitution and the 1887 Concordat. In 1942, strong Church and Conservative Party opposition restricted a proposed new Concordat to introducing minor changes in matters of marriage and vital records. Although minor, unrelenting Conservative opposition to these changes eventually managed to block the exchange of letters of ratification and the revised Concordat never took effect.

In 1957 a plebiscite was held as part of efforts to end the violent partisan warfare underway since the mid-'40s. The vote approved a constitutional amendment which created a National Front system whereby Liberals and Conservatives would take turns forming a government, and admitted Catholicism as the official faith. Bishops and clergy gave their enthusiastic support to this *de facto* restoration of the confessional Constitution of 1886. The amendment required all branches of government to consider Catholicism "a key component of the social order." "By making the Catholic Church a part of the new bipartisan regime, the National Front arrangement let it break away from overdependence on the Conservative Party and brought its long-standing conflict with the Liberal Party to an end."⁸⁰

In 1973 Colombia and the Vatican signed a new Concordat. Neither changes within the Church going back to Vatican II, nor the commitment and enthusiasm of Liberation Theology priests and laity—which showed the Church was no longer monolithic—nor opposition from liberals and some

clergy, or the rapid changes in Colombian society were enough to prevent its approval. The Concordat was ratified in 1985 for an indefinite term with some minor modifications, mostly related to physical separation of Catholic married couples.

The 1991 Constitution: A Secular, Pluralist State Takes Shape

Despite shrill opposition from the Catholic leadership, in 1991 the Constituent Assembly enacted a new charter which defined freedom of religion as a fundamental right. This tenet, set out in Article 19, was subsequently regulated by various statutes and eventually provided grounds for a constitutional challenge of the Concordat, leading the Constitutional Court to strike 16 sections as unconstitutional. Both constitutionally and increasingly in terms of actual societal life, Colombia is now a secular society. According to the Constitution, ratified by Constitutional Court Decision C-568 of 1993, Church and State are separate and government is fully empowered to enact laws and policies on family, individual liberties and fundamental rights issues, including sexuality and reproduction.

However, the Catholic leadership continues to operate as a power unto itself as both Church and government display an inability to adapt to societal and State secularization and to find ways of "establishing a positive relationship [...] within an increasingly pluralist, desacralized and religiously heterogeneous society".⁸¹

Using its traditional arguments to advantage, the Catholic leadership continues to oppose attempts to humanize and modernize abortion laws, to allow sex education and to recognize gay and lesbian rights. Other than fundamentalist groups, the Church has the support of most Catholic and Evangelical lawmakers, not to mention more-Catholic-than-the-Pope former presidents, retired generals, university presidents and private school

⁸⁰ Fernán E. González, S.J. Las reformas al Concordato. *Credencial Historia*. Bogotá, Colombia, 153, 2002.

⁸¹ Ibid.

principals who even anticipate the Church during legislative debate on these issues.

In 1991, a Constituent Assembly Commission, with support from women's groups, proposed that optional motherhood be entrenched as a constitutional right. The proposal was approved in the Commission but overturned in the Plenary Session⁸² following an angry lobby by opponents. The proposal did garner substantial support -not least because the ballot was secret- even as debate focused almost entirely on abortion rather than the right to choose whether or not to be pregnant.

2.2 Attempts to Legalize Abortion

Several bills calling for legal abortion as a means to protect women's health and lives have been introduced since 1975, most recently in late 2002.⁸³ On all such occasions, the Church and its fundamentalist supporters have not been above using disinformation tactics, circulating misleading unscientific concepts and even using downright intimidation to block approval and debate. With rights opponents often enjoying massive media coverage while supporters get little or none, many a lawmaker has been cowed into forgetting about the idea.

Further to failed attempts to liberalize abortion laws, ever since 1994 a majority of the Constitutional Court has frequently endorsed the constitutionality of laws penalizing abortion, with the dissenting vote of only a handful of members. Interestingly, this high court has echoed Catholic arguments and even quoted papal encyclicals in its rulings. Some members took exception, noting that "...the Court cannot base its rulings on constitutionality on a

religious belief or creed, no matter how sizable its following. Its only role is to objectively and impartially confront laws and the Constitution and to ensure fundamental rights, including freedom of thought and religion, are respected."⁸⁴

As if intransigent opposition to progress weren't enough, there have been attempts to increase penalties for abortion. One of these⁸⁵ sought to equate abortion to murder under the Criminal Code. The first two articles of the bill were a mere reproduction of Catholic Church statements on the beginnings of human life. Conservatives also filed a constitutional challenge seeking to suppress pregnancy resulting from rape as a mitigating circumstance in cases of abortion.⁸⁶

Beyond the abortion stand and influence of the Catholic Church, Colombia's society and State exemplify what researcher Bonnie Shepard terms the "double discourse", more commonly known as "double morality", whereby "...relief valves allow people to adapt to repressive policy, infringing them at a private level without altering the official legal or religious norms."⁸⁷ This is readily evident in Colombia, where high contraceptive use rates -77% of married women- and the high number of abortions illustrate the gap between Catholic dogma and actual reproductive behavior.⁸⁸

Religious bans and punitive laws coexist with illegal abortion, only conservatively estimated at 300,000 per year as the issue goes vastly underreported.⁸⁹ Illegal abortion methods range from innocuous folk remedies to dangerous empirical procedures to proper medical services restricted to those with access to money and

⁸² Cepeda, M.J.: Los derechos fundamentales en la Constitución de 1991. Editorial Temis. Bogotá, 1992, pp. 25-26.

⁸³ Including by Liberal Senator Iván López Botero (1975); Liberal Representative Consuelo Lleras (1979); Liberal Senator Eduardo Roza Rosero (1987); Emilio Urrea (1989); Ana García de Pechtalt (1993); and Piedad Córdoba (1997 and 2002).

⁸⁴ Constitutional Court. Dissenting vote on Decision C-013 of 1997.

⁸⁵ Bill 321 of 1996, an initiative of Senator Fernando Mendoza Ardila.

⁸⁶ Constitutional Court. Claim filed by José Eurípides Parra. Decision C-037 of 1997.

⁸⁷ Shepard, Bonnie. The "Double Discourse" on Sexual and Reproductive Rights in Latin America: The Chasm between Public Policy and Private Actions, in *Health and Human Rights*, Vol. 4, # 2, March, 2000.

⁸⁸ Profamilia. National Demographic and Health Survey. Bogotá, 2000.

⁸⁹ Allan Guttmacher Institute. Clandestine Abortion: a Latin American Reality. 1994.

information -another form of social inequality. Sheltered by political, financial and social power and legislative blind spots, the elite easily uses these escape devices to skirt both religious and legal rules without fear of sanctions. Their indifference to punitive abortion laws is characteristic of an individualistic ethos which fails to see good reason to assume the political risk of changing bad legislation from which one is exempt.

Significantly, most leaders interviewed or surveyed for this report⁹⁰ agreed that opposition or unconcern in most legislators and other political leaders about attempts to legalize abortion are based not on religious convictions but on narrow political interests and the desire to avoid antagonizing the Catholic Church.

The sole legislative advance achieved on the matter of abortion is a single paragraph in Article 124 of the new Criminal Code (2000) stating that “In the cases described in the above paragraph (“Pregnancy resulting from non-consensual or forcible intercourse, artificial insemination or transplantation of a fertilized egg”), if an abortion is *motivated by extremely abnormal situations, judges may dispense with the penalty* if deemed unwarranted” (emphasis added).⁹¹

2.3 The Impact of Violence and War on Sexual and Reproductive Rights

Colombia faces unique issues that do not exist elsewhere in Latin America. First, multiple forms of violence lash cities, towns and the countryside. Paramilitary “social cleansing” squads which take it upon themselves to rid society of “bad” or “ugly” elements spread terror among the homeless, gays, drug users, petty criminals and sexual workers, and murder or force into exile intellectuals, left-wing leaders, unionists and human rights workers.

Those who dissent from papal and Church teachings on sexuality and abortion have also been subject to censorship and death threats.

Compounding the issue are powerful drug cartels and their *sicarios* or hit men, arms traffickers and the so-called “urban militias” of various stripes which fill the void left by a derelict government and act as armed neighborhood “authority”. These militias rule over people’s life and property, harass and rape young and adult women alike, indoctrinate children and force people to evacuate their homes or entire neighborhoods on whim. These groups are a serious obstacle to formal and informal educational projects and NGO work.

Second, Colombia is beset by ongoing war between guerrilla groups and the Army plus paramilitary or so-called self-defense groups. Internal warfare, which has drained the country’s lifeblood for half a century, became in the past decade even more relentless, inflicting barbaric acts of genocide, torture, rape, kidnapping and forced disappearance upon civilians and displacing over two million men, women and children -according to official figures- from mostly rural areas.

Though not formally documented as of yet, the impact of such violence on the sexual and reproductive health of Colombians, especially women, is immense. Individual and collective rape, the resulting pregnancies, reproductive health problems in displaced women -all insufficiently documented, and above all, neglected-⁹² plus rampant STDs and higher risk of survival prostitution are just some of the problems caused by the action of armed groups. If these crimes against humanity are ever prosecuted it will certainly be in a far off future, as the inefficiency of the legal system and fear still keeps victims from reporting them.

⁹⁰ Including Senator Carlos Gaviria, Prof. Florance Thomas, Janeth Lozano of Catholics for a Free Choice (Colombia) and Beatriz Quintero of the National Women’s Network.

⁹¹ Colombian Criminal Code. Editorial Leyer. Bogotá, 2002.

⁹² The only research on this issue was conducted by PROFAMILIA and the UNFPA. Salud Sexual y Reproductiva en Zonas Marginadas. Situación de las Mujeres Desplazadas. Bogotá, 2001.

In addition to compounding sexual and reproductive health issues, violence and war make standing for sexual and reproductive rights that much more difficult. For example, the Catholic Church argues that if abortion is to be legalized because thousands of women have them, then kidnapping and murder should be legalized as well, since we also have thousands of them. In their view, abortion is just another act of violence that can only add to the number of innocent victims.

In the women's and feminist movements, the war and the attendant need for peace have led to differences of opinion on abortion, already an insufficiently discussed and far from unanimous issue. Some women's NGOs and leaders have refrained entirely, citing more pressing concerns such as displacement, forced disappearances, kidnappings and the vast effects of war on women.

3. Actors and Strategies

This chapter will review only formal -i.e., constitutional, legislative and policy- changes to key sexual and reproductive rights issues in Colombia. This is a substantial albeit partial approach which of necessity does not touch upon related sexual and reproductive health and rights issues such as promotion, prevention, care and rehabilitation.

Although the scope of this report prevents us from delving too deeply in these issues, observation suggests that the Catholic Church and other opponents do not significantly question related health care except where abortion is concerned. They do not openly oppose treatment of HIV/AIDS patients and are silent about contraceptives except where teenage or emergency contraception is involved.

3.1 Groups Actively Opposed to Sexual and Reproductive Rights

In the '30s, during debate of constitutional reforms advanced by the Liberal Party and

approved in 1936, the Conservative Party and the Catholic Church fought the significant changes in Church-State relations contained in these reforms. Conservative arguments centered essentially on a defense of the Catholic faith, family and tradition. In 1975, when a bill legalizing abortion under certain circumstances was first introduced, they founded the Right to be Born Corporation, an active opponent of sexual and reproductive rights.

Modernity and globalization have led to the emergence of new fundamentalist groups using improved strategies and linked directly with international supporters, especially in the United States.

Fundamentalist political and religious activism against sexual and reproductive rights has been ad hoc on two fronts. One is a reaction against attempts to change what they consider to be the country's religious identity, as evidenced during the constitutional reform debate and review of a Concordat with the Vatican. The other is resistance to government and legislative attempts to expand the public domain, as seen in their opposition to the National Sex Education Project and to gay rights and abortion bills.

Non-Catholic Churches

In 1979, when legal abortion was first debated, Anglicans were the sole Church to state an opinion, accepting interruption of pregnancy "when the physical or mental health of the mother or the fetus is jeopardized, in cases of rape or incest."⁹³ Legislators from other Christian churches, however, have fought off abortion bills.⁹⁴ While the evident power of the Catholic Church has somewhat muffled the voice of other churches, notably in the media and in Parliament, they remain influential -with a fundamentalist bias- among their female followers.

⁹³ Cited by Mara Viveros in: *Aborto en Colombia: Veinte años de debate en la prensa (1975-1994)*. In: *Aborto inducido en Colombia*. Externado University of Colombia, Bogotá, 1996.

⁹⁴ While media-shy on controversial issues, our interviewees, most of whom have taken active part in these debates, confirm that their opposition to legal abortion is unambiguous.

The Catholic Church

The official Catholic position on sexuality and sexual and reproductive rights essentially comes down to opposing contraception and abortion, sex education in public schools and recognition of gay rights. The official position is stated first of all by the President of the Colombian Conference of Catholic Bishops, but also by bishops, theologians, members of the clergy and the laity. The Church favors media work, lobbying and public rallies, a strategy that often attracts extensive press coverage. No less important is intra and extra-ecclesiastical work such as formation of pro-life committees in parishes⁹⁵ and holding processions by young people, students and religious communities.

The Church ensures that the official position is the only position heard by stifling dissent, as noted by Catholics for a Free Choice of Colombia. According to them, the Church position on sexuality and reproduction is "...a doctrinaire position, purported to be based on dogma, that discounts change and transformation and tries to impose by authoritarian means a view that injures society as a whole, especially women and minority groups". CFFC adds that in Colombia, "...one of the greatest obstacles to sexual and reproductive rights is the Catholic Church."⁹⁶

Members of the clergy and some theologians who have dissented with the Catholic leadership on contraception and abortion have had their voices silenced. Jesuit Alfonso Llano recently said and wrote that on matters of faith Church teachings were more accidental than substantial, prompting angry reactions from fundamentalist groups and a reprimand from Church leaders.⁹⁷ Writing on contraception in his regular column in the news daily *El Tiempo*, Llano said: "Search your conscience. If you seriously believe you can rule by contrived methods, continue to believe in Jesus and you will continue to be part of the Church... How could you possibly be barred for not observing a marginal regulation which so many believe in error!"

Research shows that many Catholics, women who have had an abortion, health care providers, members of the laity, and bishops and theologians do not share the hierarchy position on abortion.⁹⁸

Catholic Groups and Organizations

The table below lists leading Colombian Catholic groups per degree of activism against key sexual and reproductive rights such as abortion, gay couple rights and sex education, followed by a description of preferred strategies.

Group	Description
OPUS DEI	A personal papal Prelature with thousands of members in all continents. Founded in Madrid in 1928 by Josemaría Escrivá, canonized in 2001. Its stated goal is to preach the gospel. Members include leading politicians.
TRADITION, FAMILY AND PROPERTY	Elitist fundamentalists, active in the '70s and '80s.
FOUNDATION RIGHT TO BE BORN	Established in 1975 to fight Colombia's first abortion bill. Its stated goal is to defend life by fighting abortion and counseling pregnant women considering an abortion.

⁹⁵ Ibid., p. 195. Mara Viveros describes their efforts against the 1979 Abortion Bill.

⁹⁶ Survey answered by Catholics for a Free Choice for this report.

⁹⁷ "Crucificado por sus palabras". *Revista Semana*, 1095. P. 46.

⁹⁸ Graciela Melo. Problemática religiosa de la mujer que aborta. Javeriana University. 1994.

Group	Description
FOUNDATION FOR A CULTURE OF LIFE	Affiliate of Human Life International. Their motto: "Building a Culture of Life".
CHRISTIAN FAMILY MOVEMENT	Has worked with other Catholic groups on abortion issues, especially in 1979.

Strategies of Catholic Groups and Institutions

These groups have used essentially identical strategies and activities at junctures such as debate of a Sex Education Project⁹⁹ and abortion bills, the Constituent Assembly debate in 1991, preparatory ICPD meetings in 1994 and discussion

of a gay rights bill. The Opus Dei has been particularly successful at positioning members in key decision-making positions.¹⁰⁰

The table below describes the strategies used by lay groups supporting the official Catholic line on sexual and reproductive rights.

STRATEGY	ACTIVITIES
Training	<ul style="list-style-type: none"> • Conferences, workshops, exchanges with US organizations.
Lobbying	<ul style="list-style-type: none"> • Support pro-life legislators. • Ply lawmakers with videos, leaflets and other materials. • Befriend legislators and senior government officials. • Supply information, articles, views and arguments • Lobby international agencies.
Communication	<ul style="list-style-type: none"> • Work with sympathetic journalists against abortion. • Place paid ads in the print media. • Spread disinformation, i.e., "Abortion, just another contraceptive?"; "Abuse of abortion in Colombia"... • Work through radio, print media and TV. • Set up own TV channels and regular programs. • Internet and e-mail campaigns.
Manipulate public opinion	<ul style="list-style-type: none"> • Present abortion as murder, vilify legalization advocates. • Trivialize and misrepresent information on the abortion situation. • Use highly emotional graphics. • Offer adoption and counseling as alternatives to abortion. • Place ads in public transit vehicles.
Mobilize Church forces	<ul style="list-style-type: none"> • Have students and religious communities hold marches and demonstrations. • Hold noisy, attention-getting demonstrations during debates. • Use violence and threats. <p>Placing "right to be born" motto in the eye of society.</p>

⁹⁹ Resolution 3353 of 1993, Education Ministry.

¹⁰⁰ In the mid-'90s an Opus Dei member was named to the National Directorate of the Sex Education Project, eventually bringing it to a standstill. This continues to this day. In another case in point, the Church first managed to shift Colombia's official position on abortion at the ICPD, then ensured appointment of friendly representatives.

STRATEGY	ACTIVITIES
Public campaigns	<ul style="list-style-type: none"> • Fire pro-abortion employees of institutions related to Catholic Church. • Utter death threats through “social cleansing” militias.
Retaliation and violence	<ul style="list-style-type: none"> • Destroy billboards and similar materials placed by sexual and reproductive rights groups.

3.2 Other Actors

Political Parties

Colombia’s Liberal and Conservative parties do not take an official stand on sexual and reproductive rights. While all abortion bills have been Liberal-sponsored, the party has shied away from endorsing them as policy. Conservative legislators, for their part, have made sure that no abortion bill should ever pass. Left-wing groups consider these issues marginal and even inappropriate vis-à-vis other crucial national issues whose solution bears no delay, albeit in the 1979 abortion debate the Chairman of the Communist Party and the feminist leader Socorro Ramírez, then head of the Workers’ Socialist Party, did support the bill.¹⁰¹

News Media

The power of the media to sway public opinion on controversial issues such as sexual and reproductive rights is evident. While the media debate has been dominated by anti-abortion positions, some have taken the time to provide an objective assessment and cover alternative views. This is the case in the print media, especially in *El Tiempo*, one of Colombia’s most widely read news dailies, and in respected newsweeklies such as *Semana* and *Cambio*.

While television is hardly accessible for sexual and reproductive rights supporters, especially given the

recent privatization of most networks, this is not the case for the Catholic leadership. Bishops are the leading and often only guests on televised debates on homosexuality and abortion. Due to their financial muscle, television advertising is easily accessible for groups close to the Catholic Church.

Women’s Movement

The fight for sexual and reproductive rights is spearheaded by feminist NGOs and two national networks,¹⁰² albeit with different levels of engagement and based on different strategies. Colombian NGOs¹⁰³ pioneered sexual and reproductive health care services for women in Latin America, including quality services for incomplete abortion. On abortion, however, feminist groups and the broader women’s movement are not of one mind. Despite important opportunities arising during the ‘90s, the wide-ranging, genuinely participatory debate required to take an informed stand on the issue has yet to take place. There is a division of labor or specialization of sorts, reflected in different priorities and target issue areas.

Differing positions on abortion obviously suggest different political views. As ongoing war and violence cause massive human rights violations, part of the feminist movement has decided to focus on this issue and on the search for peace. Coalitions such as *Ruta Pacífica de las Mujeres* have made a significant contribution in this respect. Some women’s and social leaders and groups have

¹⁰¹Viveros, Mara. In: El aborto inducido en Colombia. Op. cit., pp. 222-23.

¹⁰² National Women’s Network and Colombian Women’s Network for Sexual and Reproductive Rights.

¹⁰³ Oriéntame, Sí Mujer, Promujer, “Salud Mujer”. The latter disbanded after serious threats.

retreated from the abortion debate following a strategic decision not to antagonize allies in areas such as the search for peace, in which the Catholic Church plays a leading role.

Some feminist groups and NGOs also eschew abortion as the poor women with whom they work do not consider it a priority compared to the severe poverty and discrimination they face on a daily basis.

This scenario deserves further analysis. If sexual and reproductive rights are an indivisible part of human rights, is it politically acceptable to bar some of them from the political agenda? Another aspect to consider is the cost-effectiveness of defending women's right to legal abortion. As noted in a study of Latin American sexual and reproductive rights networks, working for abortion can hurt feminist organizations, leading to internal division, estrangement from potential allies and blackballing by government and other bodies (Shepard, 2003).¹⁰⁴

Then there is the political appropriateness of shunning controversial issues, alleging a need to gain further recognition and legitimacy in order to be in a better position to fight for those issues. Shepard wonders if this argument could become an excuse to never address the issues.¹⁰⁵

These issues go a long way to explaining the weakness of the feminist movement struggle for sexual and reproductive rights. Its constituency is scant while information, debate and resources remain heavily concentrated in the capital, severely restricting involvement by the provinces. The fact that precious little funding is available for these activities can only compound these shortcomings. Still and all, some NGOs and women leaders have devised a range of strategies to establish a constituency, distribute information and impact related laws and policy. Key strategies -some ongoing, some ad hoc- are shown below.

STRATEGIES OF THE WOMEN'S MOVEMENT AND SOME NGOs

- Educational work aimed at poor women
- Civil servant training
- Participation in debate and policy forums such as National and Territorial Planning Councils and relevant Thematic Committees
- Advice and support members of the Constituent Assembly
- Participate in UN and other relevant conferences
- Monitor government compliance with international instruments
- Provide information to lawmakers and government officials
- Work with radio and other broadcast media whenever possible
- Joint work with academe on specific issues
- Produce news releases on specific issues
- Advise and support lawmakers committed to sexual and reproductive rights
- Campaigns in favor of women victims of rights violations
- Conduct and publicize legal activities
- Provide alternative sexual and reproductive health care services, including services for incomplete abortions
- Research activities

¹⁰⁴ Shepard, Bonnie. "NGO Advocacy Networks in Latin America: Lesson from Experience in Promoting Women's and Reproductive Rights". University of Miami North-South Center. 2003. See www.miami.edu/nsc/publications/pub.ap.pdf. Our translation.

¹⁰⁵ *Ibid.*

Sexual Minorities

The Constitution of 1991 helped turn the '90s into a decisive decade in terms of raising the profile of sexual minorities and their struggle for recognition, notably as constitutional injunctive relief provisions became a key tool in the fight for fundamental gay rights. Legal options were complemented by a coming-out strategy designed to highlight their presence through public demonstrations, appearances in broadcast and print media and sometimes on television, and participation in academic events and governmental working groups on STDs and HIV/AIDS. Successful alliances with parliament and government helped push forward legal initiatives in favor of gay couples and submit a bill to Congress.¹⁰⁶ Yet, reflecting ubiquitous gender inequalities, gays figured much more prominently than lesbians.

Medical Societies

Medical practitioners increasingly recognize unsafe abortions as a public health issue which should be addressed through policy rather than legal action. In 1979, 74.5% of physicians surveyed by the Gynecology and Obstetrics Association of Colombia were in favor of less restrictive legislation, yet no medical society ever publicly supported legal abortion. Those who did make a public pronouncement came out in favor of sex education and unwanted pregnancy prevention in order to avoid abortion,¹⁰⁷ which states the obvious but does not begin to address the real issue of bringing down clandestine, high-risk abortion. Still, a handful of prestigious and courageous medical practitioners remain committed to prevention of unsafe abortions and continue to expose the abortion ban as the cause.¹⁰⁸

Academic Institutions

In the '90s several universities made extraordinary efforts to expand Colombians' scant knowledge

of abortion. While hampered by the limitations inherent to researching a strictly illegal activity, the most comprehensive study to date was conducted in 1992-1995 by Externado University of Colombia. Findings circulated widely and were presented in regional forums and used to apprise key regional actors at events such as the Parliamentary Conference on Abortion. The methodology was shared at the Research Conference on Abortion in Latin America and the Caribbean. The Javeriana and National universities have also contributed valuable research on sexual and reproductive rights.

In recent years, however, a host of senior university officials have come out in force against legislating gay and abortion rights or even allowing contraceptive use by Catholics. Working in association with personalities such as former presidents, they have used their financial might to obtain significant coverage in print and broadcast media. One of them, university president José Galat, hosts a weekly show in a state-owned nationwide TV network in which he propounds Catholic dogma and presents bizarre ideas that contribute to public misinformation.

4. From Two-Sided Debate to New Lines of Argument

4.1 Sexual and Reproductive Rights Advocates: Capacity, Strategy and Results

To be sure, the feminist movement and sexual and reproductive rights advocates have managed to place highly controversial issues, including diversity and sexual minority rights, front and center. Yet, as far as abortion is concerned, their accomplishments have been limited to shining a light on the issue and to show that, notwithstanding the fundamentalist stand of the Church and other recalcitrant groups, people do consider abortion a real-life issue hurting real women.

¹⁰⁶ Recognizing same-sex unions, patrimonial obligations and other rights, September, 2002.

¹⁰⁷ Viveros, *Op. cit.*, p. 193.

¹⁰⁸ Especially long-time Profamilia Director Miguel Trias and Oriéntame founder Jorge Villarreal Mejía.

In addition to the difficulties and risks involved in speaking out on behalf of life, health, self-determination and women's and sexual minority rights, advocates face time and financial constraints stemming from the breadth and scope of outstanding issues in a society as complex as Colombia's. These factors coalesce to prevent progress on the issue of abortion.

4.2 Potential Religious Allies

The authoritarian, punitive attitude of the Catholic hierarchy towards dissent on matters of sexuality and reproduction, plus the activities of violent, intolerant groups, pose a direct risk to those who advocate sexual and reproductive autonomy even if from a purely religious point of view. As a result, Catholic groups or individuals who openly dissent from the official line are not easy to come by. Yet, some clergy and theologians are privately willing to contribute to a fuller examination of divisive issues such as homosexuality and abortion. While an opinion on Adventist and Protestant churches requires further study, it should be noted that only the Catholic Church has the power to influence laws and policy.

4.3 Positive Trends in Religious Discourse

Colombian moral theologians who agree with late 20th-century counterparts in that abortion may be morally justified in certain cases are certainly departing from the official line that disallows it under any circumstance. Eschewing a key tenet of Catholic doctrine -that human life begins at conception- these theologians focus instead on the moral considerations that qualify human acts. To our knowledge, only one Colombian Catholic theologian has had the courage to publicly say that abortion may be a moral decision made in good conscience in response to a clash of values or obligations of a type individuals often face, and which necessarily leads to choosing the higher value or duty, inevitably giving rise to a blameless lesser evil. According to him and other theologians, a woman acts appropriately when choosing to preserve a higher value such as her physical or mental health instead of preserving the life of the fetus or embryo.

This broad-minded perspective on the clash of values could lead to considering abortion for social or economic reasons morally correct. Theologians who dissent from traditional Church positions say that resolving this conflict and making a wise decision requires a moral conscience. What is significant in these ideas is that, in the case of abortion, it is women who must weigh the conflicting values. It is this essentially subjective assessment that leads them to choose the higher value, irrespective of whether others disagree.

The position of moral theologians on conflicting values or duties may appear closely related to autonomy, a key principle of Western ethics. Indeed, resolving an ethical conflict in good conscience is an exercise in autonomy. Interestingly, the point of moral theologians is that conflict centers on values and duties rather than rights, as in the liberal concept of abortion.

In addition to alternative theological reflections, mention must be made of Catholics for a Free Choice, a movement advocating transformation of power relations in the Church, eradication of dogmatism and sexism among the hierarchy and clergy, elimination of discrimination and violence against women within the Church, the supremacy of informed conscience, respect for issues of sexuality and procreation, and an objective, pastoral view towards women who must abort. Although recently established, Catholics for a Free Choice (Colombia) is already a recognized actor in the fight to change Church views and punitive abortion legislation. While their ability to influence the hierarchy is extremely limited, their discourse can contribute to enlightening Catholic women and couples facing the dilemma of whether or not to interrupt a pregnancy.

4.4 Recommendations for Strategy Building and Development

The obvious inadequacy of the strategies used in Colombia to push for legalization of abortion requires a reassessment designed to adjust and

strengthen existing approaches and refine and implement others, such as those outlined below.

Many of these were suggested by leaders interviewed and surveyed for this study.

STRATEGY	DESCRIPTION
Research	<ul style="list-style-type: none"> Analyze audiences (B. Shepard); potential allies. Identify journalists and media willing to discuss abortion and related issues; provide training and regular information. Conduct new sociodemographic research on abortion and collect data on prevalence and characteristics among displaced women. Research the abortion strategies used in other Catholic-majority countries (i.e., Italy, Spain). Research legal and ethical developments from a feminist perspective in order to broaden and re-orient arguments in favor of legal abortion.
Conceptualization	<ul style="list-style-type: none"> Insist on the concept of sexual and reproductive health rights as citizenship rights.
Partering	<ul style="list-style-type: none"> Approach medical and learned societies, nursing associations, health worker unions, gay groups, people working on HIV/AIDS. Support social and human rights organizations and demand reciprocity. Establish an ongoing dialogue between all actors committed to sexual and reproductive rights, including academe, feminist groups and legislators; aim for proactive approach. Provide abortion training to recognized intellectuals from a range of disciplines, including philosophy, ethics and the law, and establish them as specialists in talks with legislators and government .
Media Presence	Ensure leaders make regular media appearances.
Advice	Support sympathetic legislators to ensure inclusion of legal abortion as a public health issue in new legislative initiatives in order to guarantee the sexual and reproductive rights and health of the population.
Integrate Provinces	Provincial organizations and leaders should take part in strategizing intended to broaden the legal abortion constituency and work with local actors.
Use Professional Tools	Information should be provided to key legislators and policymakers on video and CD formats and documents featuring excellent content and flawless presentation.
Speak Out	Speak out against all fundamentalism and expose their strategy of denial, their effect on women's lives and their violent, manipulative approach to public opinion, legislators and policymakers.
Funding	Secure the financial resources required to implement strategies.

4.5 Strengthening and Diversifying Argument: Lines of Social and Legal Research and Ethical Development

The polarization of positions on abortion appears to leave no room for negotiation. History shows

that debate on this issue has, with few exceptions, taken place between diametrically opposed currents of opinion. It is an intricate debate marked by Catholic Church obstruction of objective, productive dialogue between civil society and the State.

Feminist and women's leaders who take part in debates stay away from the issue of the beginning of human life, both because the jury of science is still out and because it is an exercise in futility. The issues, especially in the '80s and '90s, are unsafe abortion and women's right to life, health and reproductive autonomy. Abortion is the second leading cause of death in Colombia -a major public health issue.

To the persistent battering of the Catholic Church and groups, reproductive rights advocates counter that asserting that human life begins at and is sacred since conception is a religious concept which has no place in policy- and lawmaking.

The dynamics of the abortion debate pose some key questions about the lines of argument used thus far. First, the effectiveness of arguing from the standpoint of women's human and constitutional rights. This argument has a force and legitimacy stemming from numerous international human rights instruments and the Colombian Constitution itself but has led to a bitterly polarized debate, since the opposing argument is based on the rights of the unborn, as stated by the Catholic leadership and conservative and fundamentalist sectors. Polarization translates into a clash between political-legal liberals and conservatives; between women's rights advocates and defenders of the rights of the *nasciturus*, who refer to it in ways designed to appeal to emotions: baby, innocent life, defenseless creature, unborn child, etc. In Colombia, the rights debate has failed even in the highest court of the land. Political and religious conservatives have prevailed, and the State, women and society have lost.

Although feminists and political and legal liberals have much in common on sexuality and reproduction, including abortion rights, they differ on substantial aspects. For example, the inviolability of domestic privacy based on a drastic division of the public and the private, which makes women additionally vulnerable in a domain where their rights are trampled on daily.

Question one, then, is how to move beyond the limits of the political and legal liberal perspective on freedom and toward a debate about alternatives.

Question two flows from the first: How to introduce solid feminist arguments into the abortion debate? Is decriminalization -and even acceptance- of abortion to be understood as a matter of respect for female identity, equality and bodily integrity?

Colombia's legislative history contains numerous formal equality gains in areas such as equality of family, labor and political rights. But the road towards equality of bodily rights, to overcoming the external rule of the female body, has been both tortuous and ongoing, as evidenced by the restrictive abortion laws still in the books. Underlying these laws and the arguments of abortion opponents is the perennial image of women-as-mothers, selflessly dedicated to others, embryos and fetuses included, subject to compulsory models of life and behavior, their own humanity always in question.

On the question of State control of women's bodies, law researcher Cristina Motta says that "...Regulating the female body is saying that, while human beings, women are not inviolable. Viability, derived no doubt from the ability to bring life forth, reveals that the root reason to discriminate and treat women as inferior is their capacity for procreation... Denying them the right to abort is to violate the female identity, to deny a basic entitlement and the vital coherence required by the processes of individuation and construction of the self..."¹⁰⁹

As feminist analysis goes this is surely nothing new, yet it should be revisited as a tool to dispose of stereotyped images of women. Full recognition as individuals well-rooted in modernity with an identity of our own, fully capable of handling our own life objectives, remains the challenge. Revising feminist argument will surely qualify the debate and contribute to moving beyond the two-sidedness in which it is mired. As well as enhancing the discursive skills of

¹⁰⁹ Motta, Cristina. El aborto como asunto constitucional: una crítica feminista. In Derecho Constitucional. Perspectivas críticas. Facultad de Derecho, Universidad de los Andes; Siglo del Hombre Editores, 1999, p. 181.

sexual and reproductive rights advocates, it could lead to new alliances, paving the way for legal abortion.

Arguments which must be maintained but revised:

- *Insist on effective secularization of the State, as it should be in a democratic society.* This demand is part of the call for secular modernity not just in the State and technology, but especially in the domains of democratic, social and human concerns. Ours is a modernity at the service of equality, justice, participation, peace, and dignified life; an inclusive modernity where women can participate as full citizens since, as noted in the European Parliament's report on Women and Fundamentalism, "...attempts to modernize society leaving women out of democracy are doomed to failure."¹¹⁰
- *Reinforce the unsafe abortion argument as an issue of access and public health directly connected to the abortion ban.* The health focus helps demonstrate the physical and psychological effects of unwanted, inconvenient or enforced pregnancies with a view to legalizing therapeutic and eugenic abortion, as well as place abortion for social reasons within the context of comprehensive health rights.
- *Expand ethical and moral arguments.* Despite the scant influence of Catholic morals over women who resort to abortion, these arguments have loomed large in both public debate and Constitutional Court decisions. Ever since the days of the confessional State, the Catholic leadership equated sin to crime -a misconception still in evidence under a constitutionally secular State. Since Colombia is indeed a secular State, a secular ethical discourse on abortion is therefore of utmost urgency -a task some feminist philosophers and thinkers have fortunately undertaken.
- *Propose, in association with feminists working for peace, a holistic concept of peace* based on the right to live life in dignity and to bodily

integrity in daily life, not only in light of the war ravaging the country but as a vision that all issues related to life are as germane and important. An idea of peace "...related to private life, to the backyard, to the eradication of inequality, to the achievement of health."¹¹¹

Certainly, further elaboration of the type proposed here requires research, joint work with academe, study sessions and a search for consensus. Some of the proposed target areas are:

- Update social and demographic data on abortion and document prevalence, impact on women's health and characteristics among displaced women;
- Feminist legal research designed to expand and realign arguments in favor of legal abortion;
- Research ethical principles and values relevant to abortion from a secular, feminist viewpoint;
- Documentary, participatory research on integration of peace efforts and sexual and reproductive rights issues;
- Analyze audiences and potential allies and adapt our arguments accordingly;
- Identify journalists and media open to objectively discuss abortion;
- Research the abortion strategies used in other Catholic-majority countries.

All of these require time and funding. Securing these resources, especially funding, is essential to levelling the playing field with Catholic and fundamentalist contenders who are often part of powerful economic and political elites or receive their backing. Yet, the essential component is already there: vast numbers of dedicated women and men committed to bringing about a new order where human dignity will no longer be mere rhetoric.

¹¹⁰ Ibid. No. 1.5.

¹¹¹ Florance Thomas, interviewed for this report.

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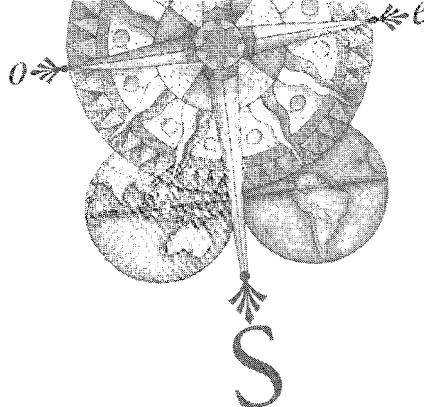
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THE DEBATE ON SEXUAL AND REPRODUCTIVE RIGHTS IN CHILE: SEPARATION OF CHURCH AND STATE?

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1. Introduction

This report addresses the policy relevance in present-day Chile of the Catholic Church, an institution whose influence and impact on the social and cultural life of the country go back to the origins of the Spanish Conquest.

The debate on sexual and reproductive rights in Chile has taken place at various levels and domains. Here we review some of the key players and advocacy strategies as well as their arguments and principles.

Finally, we review some of the comments elicited by this report with a view to providing recommendations for improved sexual and reproductive rights advocacy.

2. The Context in the Nineties

In the past decade Chile underwent major social, political, economic and cultural transformations. Yet, in spite of strong economic performance, Chile remains incapable of reverting growing exclusion and socioeconomic and gender imbalances, calling into question the equitable growth strategy outlined by the government in 2002.¹¹² According to a Social Watch Report,¹¹³ Chile has one of the world's most skewed income distribution scenarios, with the poorest decile earning 3.7% of national income while the richest decile get 53.4%.¹¹⁴ It also notes an official bias toward business as part of a belief that domestic and foreign investment is the key to reinvigorating the economy and new job creation. This logic overemphasizes free trade agreements of questionable benefit, as an equal

¹¹² Overall poverty and inequity increased in Latin America during the '90s. Although the percentage of persons living in poverty fell from 48.3% in 1990 to 43.8% in 1999, the absolute number actually increased since population itself grew. ECLAC, *Panorama social de América Latina 2000-2001* [Social Overview of Latin America 2000-2001].

¹¹³ Social Watch. *El impacto social de la globalización en el mundo* [Social Impact of Globalization in the World]. Report No. 6, Uruguay: 2002, pp. 100-101.

¹¹⁴ CASEN Survey. Santiago: 2000.

footing among extremely unequal economies is next to impossible. Chile imports technology and value-added items and exports primarily commodities with low added value, making for highly distorted terms of trade.

In addition, thirty years after a military takeover and over a decade after a return to democracy, key constitutional, labor and human rights issues remain pending.¹¹⁵

According to analyst Tomás Moulián, this is compounded by increasing passivity, conformism, and unbridled consumerism. Chileans live in a “credit-card culture”, he writes, where identity hinges on consumption. He speaks of shopping centers as “temples of consumption” that create the illusion of a safe, classless world where all have the same right -to buy.¹¹⁶

The latest Human Development Report for Chile¹¹⁷ shows that a strong collective identity is waning. In present-day Chile, changes in social coexistence expand the options for people to develop their individuality. However, there is unequal access to the objects, symbols, bonds, and values contributed by society to the individualization process. In fact, two-thirds of working-class respondents believed that the course of their lives does not depend on them. Perceptions about lifestyles and images of society show much dissociated diversity, reflecting a deficit of cultural integration which affects human development.

Both Chile and most of Latin America have competing systems of sexuality and reproduction regulation and control that vie for legitimacy and the recognition of a range of sectors representing various interpretive frameworks. This is

complemented by a recognition that the universe of meanings making up a society is reflected in the social discourses that groups assert as legitimate for the purposes of regulating gender, class, ethnic and other relations. This is evident in the sexuality and reproduction dispute, particularly in the Chilean case.

In the context of the social construction of reality, these meanings are construed as ‘true’, taken for granted, and then transmitted in a ‘naturalized’ manner. These universes of meanings operate as organizers of sense for human acts by establishing the limits for what is licit, permitted, and esthetically acceptable. Castoriadis¹¹⁸ writes that instituted systems of sense order, legitimize, discipline and define the place, social space and characteristics of the players. Instituting systems of sense are emerging organizers of sense that cause transformations of sense by proposing new systems of meanings, generating great resistance from the instituted. Societies generate mechanisms that allow for absorption of the emerging by ‘recovering’ (reinforcing the existing order and dynamics) or ‘dilution’ (integrating them into more traditional, stereotyped representations).

As regards the Chilean case, SUR Researchers write that “...in the field of sexuality, new elements were introduced to the instituted by the instituting proposed in the ‘70s and reinforced by the feminist movement, but with certain limitations that bog it down in traditionalism. In other words, transformations seem compatible with previous patterns of sexuality (...) Female eroticism is recognized under certain conditions, such as commitment and stability in the relationship and, thus sexual exclusiveness. Pleasure is legitimized, but within the family and within a loving, romantic

¹¹⁵ Although human rights investigations by special judges are proceeding, the amnesty enacted by the dictatorship in 1978 is still in force. Grupo Iniciativa Mujeres. *El nuevo contrato social: Balance de una década de democracia en Chile* [The New Social Contract: Balance of a Decade of Democracy in Chile]. Santiago: 2002, p. 10.

¹¹⁶ Moulián, Tomás. *Chile Actual: Anatomía de un mito* [Chile Today: Anatomy of a Myth]. Santiago: Editorial LOM, 1997.

¹¹⁷ UNDP. *Desarrollo Humano en Chile. Nosotros los chilenos: un desafío cultural* [Human Development in Chile. We the Chileans: A Cultural Challenge]. 2002.

¹¹⁸ Rivera, Diana; Rodo, Andrea; Sharim, Dariela; Silva, Uca. *Relaciones de género y sexualidad* [Gender and Sexuality Relations]. Investigative report. Documentos de trabajo No. 153. Santiago: Sur, 1995. Based on Cornelius Castoriadis’ social theory on the *institutionalized* and the *institutionalizing*.

environment. This, in turn, implies development of the sensitive side of male sexuality, which under these circumstances is more congruous than the traditional love-pleasure dissociation that characterized male behavior. This integrates some emerging elements and discards what seems threatening and disruptive (free love and group sex, for example)."¹¹⁹

Similarly, Bonan¹²⁰ notes that regulation of sexuality and reproduction in modern societies differs from traditional societies. Biomedical science becomes the great interpretive framework which overpowers or coexists with religious interpretive frameworks based on divine or cosmological reasons. Since the late 18th century, as nation-states are created, the order and regulation of sexuality and reproduction are justified for "reasons of State", "social order" or "national interest". Emergence of new political actors and their intention to transform relevant aspects of the social order questions the foundations of such types of modern order, outlining a new emancipating interpretive framework that arises, primarily, from players in the feminist and women's movement.

Another issue that captures sociocultural transformations during the '90s is family life and new ways of building families, as evident in the following quote: "Patterns that linked family to marriage and women to family have allowed for other forms of life sharing that showed the gradual deinstitutionalization

of the family and eroded the image of the father as provider as well as the authority this role conferred him over women and children."¹²¹

These transformations are part of a historical process noted for the growing involvement of women in the labor force, education, public life and politics. However, "the margins for freedom and personal creativity are unevenly distributed and access is only possible provided that institutional assistance (human rights, international courts, social policy) is in place to help minimize the effect of power differentials and inequalities in access to resources between men and women and amongst women themselves."¹²²

Demographically, Chile is undergoing an advanced transition towards population aging. According to the latest Census,¹²³ life expectancy stands at 78 years for women and 74 for men. The fertility rate has declined progressively and noticeably in past decades, evidencing the impact of massive access to fertility regulation through government programs initiated in the mid-'60s.

In addition, studies and surveys point to changes in the sexual and reproductive behavior of Chileans, especially teenagers and young adults.¹²⁴

A national survey on sexual behavior conducted by CONASIDA¹²⁵ (Ministry of Health) confirmed a trend towards more liberal sexual practices, especially among teenagers, evidencing changes in traditional sexual patterns.¹²⁶

¹¹⁹ Ibid., pp. 11-12.

¹²⁰ Bonan, Claudia. *Sexualidad y reproducción en la era de los derechos* [Sexuality and Reproduction in an Era of Rights]. *Conspirando Magazine* No. 37. Santiago: 2001; *Sexualidad, reproducción y reflexividad: En busca de una modernidad distinta* [Sexuality, Reproduction and Reflexivity: Searching for a Different Modernity]. In: Araujo, Kathyal; Ibarra, Carolina (eds.). *Sexualidades y sociedades contemporáneas* [Contemporary Sexualities and Societies]. Colección Seminarios. Santiago: Christian Humanism University Academy, 2003.

¹²¹ Grupo Iniciativa Mujeres. *El nuevo contrato social: Balance de una década de democracia en Chile* [The New Social Contract: Balance of a Decade of Democracy in Chile]. Santiago: 2002, p. 55.

¹²² Guzmán, Virginia. *Las relaciones de género en un mundo global* [Gender Relations in a Global World]. Santiago, Chile: ECLAC, Serie Mujer y Desarrollo, 2002.

¹²³ INE. 2002 Census.

¹²⁴ Palma (1994); Sharim et al. (1996); Rossetti (1997); Grupo Iniciativa (1999); CONASIDA (2000); Valdés (2001).

¹²⁵ CONASIDA (2000). *Estudio nacional de comportamiento sexual* [National Study on Sexual Behavior]. Ministry of Health. Santiago: CONASIDA.

¹²⁶ Sharim, D.; Silva, U.; Rodo, A.; Rivera, D. *Los discursos contradictorios de la sexualidad* [The Contradictory Discourses of Sexuality]. Santiago: Ediciones Sur, Colección Estudios Sociales, 1996.

A survey by Grupo Iniciativa shows that assumptions about the role of women have evolved. These no longer restrict them to home or family and recognize women as holders of rights in both the private and public domains. The survey shows that 6 out of 10 women interviewed favor premarital sex while 1 out of 4 believe that women should start their sexual lives when they see fit - 1 out of 3 in the 20-33 age group. This view coincides with those of males. Most respondents (9 out of 10) agreed that people have a right to use contraceptives within or without marriage. The ratio is also higher in the 20-33 age group.¹²⁷

According to Valdés, premarital sex is widely accepted. While most women -especially younger ones- value sexual pleasure highly, this view is more prevalent in young middle- and upper-class respondents. In addition, relationship quality standards are higher, leading to greater ability to negotiate when to conceive babies and at what pace.¹²⁸

After the World Conferences on Population and Development (Cairo, 1994), Women (Beijing, 1995) and CEDAW, greater emphasis has been placed on the relationship between human rights and sexual and reproductive rights. Civil society groups have supervised, monitored, and made proposals in respect of changes in the domains of sexuality and reproduction.¹²⁹ In Latin America, civil society groups¹³⁰ have fought for sexual and reproductive self-determination and demanded the right to participate in government decisions about these issues. Key strategies have included proposing legislative and constitutional reforms and participating and impacting international conferences and implementation of resulting conventions.

Despite certain advances in the last decade, response from the State has been insufficient or even visibly poor. Between 1994 and 2002, monitoring¹³¹ of the Cairo Action Program by the Sexual and Reproductive Health and Rights Forum showed, among other issues, that Chilean legislation on sexual violence has severe gaps that contravene international commitments, including, for example, no provision for free legal counsel for victims of sexual violence or adequate health and psychological coverage. The Constitution does not guarantee teenage rights and there is no comprehensive legislation on adolescence. The sole legislative advance was Law 19688 protecting the right of pregnant teenagers to stay in school. Chile is one of few countries in the world to criminalize all types of abortion, including therapeutic, which was nevertheless legal from 1931 to 1989. Health care personnel are legally bound to report women who have aborted, a crime punishable by 3 to 5 years' imprisonment. While international human rights organizations have recommended amending these laws and reinforcing prevention of unwanted pregnancies, there have been no institutional advances in the humanization of care for women who abort, nor ministerial recommendations or directives to health care personnel to at least respect the confidentiality of women undergoing abortion complications.

Despite some progress in the policy sphere, State action remains inadequate partly due to a confrontation with players, often related to the Catholic Church, who oppose it relentlessly. The JOCAS initiative¹³² and the emergency contraception debate clearly exemplify this

¹²⁷ Grupo Iniciativa. Encuesta Nacional: Opinión y actitudes de las mujeres chilenas sobre las condiciones de género [National Survey: Opinion and Attitudes of Chilean Women on Gender Conditions]. Santiago: Grupo Iniciativa, 1999.

¹²⁸ Valdés, Teresa. El poder en la pareja, la sexualidad y la reproducción [Power within the Couple, Sexuality and Reproduction]. Santiago: Latin American Faculty of Social Sciences, 1999.

¹²⁹ Framework Bill for Sexual and Reproductive Rights. Santiago: August, 2000.

¹³⁰ CLADEM. Systematization by María Ysabel Cedano. Derechos sexuales y reproductivos, desafíos para el feminismo contemporáneo [Sexual and Reproductive Rights: Challenges for Contemporary Feminism]. Based on 170 answers to a survey of women's and activist organizations in Latin America and the Caribbean (2001).

¹³¹ Sexual and Reproductive Health and Rights Forum. El monitoreo como práctica ciudadana de las mujeres [Monitoring as Women's Civic Practice]. Santiago: 2002.

¹³² Conversation Workshops on Relationships and Sexuality, held in the '90s as part of Education Ministry Sexuality Policy.

mindset. So-called pro-life groups have become significant, efficient players capable of shaping government policy and programs.

Discourse conveys a representation of the world; it advances and reproduces ideology. Therefore power groups attempt to control knowledge and opinion through discourse, in order to indirectly control their activities. In Chile, in addition to the above discourse, we have now a biomedical and bioethical discourse which has achieved much legitimacy in the fields of sexuality and reproduction.

3. Catholic Church, Sexuality and Reproduction

The strong influence of the Catholic Church in Chile is patent since colonial times. This section outlines some of the most significant milestones of its influence in the domain of sexuality and reproduction.

According to Salazar and Pinto, up to the late 19th century the Catholic Church was a cross-cutting institution and social activity that regulated both the public and the private domains, controlling a realm larger than the State.¹³³ The Catholic faith, they add, was part of the ideological process of conquest and colonization. "... [T]hrough the late 18th century and part of the 19th century, the Catholic faithful were essentially the colonizing families, as Catholicism had only marginal roots among natives, persons of mixed race and peons."¹³⁴ Reproducing the political, military and religious features of oligarchic families, State and Church were linked in the civic sacrament of Constitutional Law. In this alliance the Church became responsible for social policy -education, health and morals- from colonial times through

1925. As Salinas notes, for ruling patricians Church matters were above all matters of government and official public rite.¹³⁵ This alliance crystallizes in the Constitution of 1833, whose Article 5 declared Chile a Roman Catholic country -to the exclusion of all other faiths.

For Catholics, secularization of the Chilean State between 1875 and 1885 meant "loss of spiritual unity" and "persecution of the Church". The emerging conflict was "a universal problem" whose leading "causes of disorder" were "Satan's fierce hatred" in the form of rationalism and materialism. Its "major enemies" were liberalism and Freemasonry and the battle was "not for political form, but for ideas and values."¹³⁶

As noted by Krebs, the process of separation of Church and State caused divine and natural law to be brought into play often: "In 1873, on occasion of the debate in the Senate and press over a Criminal Code amendment bill and the objections raised by bishops (...) the Catholic Register wrote that the bond between Church and State was part of divine and natural law, not a mere 'alliance'. Thus, separation was not merely the dissolution of a contractual bond, but an impious, unfair and anarchic act the Church could only condemn."¹³⁷

When the State took over burial grounds the Catholic Church used legal and theological arguments, charging violation of property laws and of the principle that no authority or person could claim powers or rights not expressly conferred by law. The initiative was termed a theft of Catholic property that transferred "holy ground" to the State.¹³⁸

¹³³ Salazar, Gabriel; Pinto, Julio. *Historia contemporánea de Chile. Niñez y juventud* [Contemporary History of Chile. Childhood and Youth]. Santiago: Ed. LOM, 2002, p. 135.

¹³⁴ *Ibid.*

¹³⁵ Salinas, Maximiliano. *Historia del pueblo de Dios en Chile* [God's People History in Chile]. Santiago: Ed. Rehue, 1987, p. 191.

¹³⁶ Krebs, Ricardo et al. *Catolicismo y laicismo. Las bases doctrinarias del conflicto entre la iglesia y el estado en Chile (1875-1885)* [Catholicism and Laicism. Doctrinal Basis of the Conflict between Church and State in Chile (1875-1885)]. Ed. Nueva Universidad, Communications Department, Catholic University of Chile, 1981.

¹³⁷ *Ibid.*, p. 27.

¹³⁸ *Ibid.*, p. 33.

Another case in point was the institution of marriage. Until 1884, Catholic priests performed the only type of “legal and moral marriage” known. In August 1883, President Santa María presented to Congress a Civil Marriage Bill that gave civil registry officials sole authority to perform marriages, based on the principle that the State has sole jurisdiction over the civil affairs of citizens who are equal before the law. Religious marriage would become optional. The Catholic Church wrote that this law “would have terrible social consequences and that all marriages performed outside the prescriptions of Canon Law would be null and void and, therefore, deemed concubinage.”¹³⁹

Catholic doctrine posits that monogamy and indissolubility are essential attributes of marriage, arguing this “...not only on religious dogma or divine law, already expressed in the Old Alliance and reiterated even more strongly by Christ, but basically by *virtue of natural law*. (...). The greatest satisfaction of Christian doctrine, however, is to confirm that Revelation is in harmony with reason, justice and natural law.”¹⁴⁰ Catholic theology zealously cultivates the use of reason, not only to elaborate a certain systematization it has called “Christian philosophy”, but also to abundantly employ it in Moral Theology, especially to distinguish which intricacies of human activity are fair, straight, good and virtuous.”¹⁴¹

The appeal to the natural law argument resurfaced in the 1990s: “We oppose absolute divorce since, as

noted, it is against natural law. Religious marriage, and indeed all marriage from the beginning of humankind, is for life.”¹⁴² The Church further argued that “...the family unit is the natural, most fundamental form of organization of society and Church; the most favorable domain for development of personality and for preparing individuals to exercise their rights and duties. It thus deserves the protection of society, Church, and State.”¹⁴³ It follows that “In the event that a bill accepting divorce in certain cases is passed, all should bear in mind that a law does not transform something that by nature is wrong into something good. Divorce will continue to be evil.”¹⁴⁴

Education provides a final case in point. On September 29, 1873 a decree established that “*religious education will not be mandatory at public schools for students whose parents, guardians or representatives request this exception.*” Catholic bishops wrote the government to request that religion be kept a requirement to obtain a university degree, arguing that an officially Catholic State was compelled to maintain compulsory religious instruction.

The Catholic Register had already forcefully protested when the request for this decree was presented before the University Council, indicating the seriousness “of placing Catholicism at the same level of the sects that fight against it; we oppose this unsound, unfair and pernicious system for a nation which, whether non-believer rationalists like it or not, still preserves, as its heart’s dearest gift, the holy faith sealed by the blood of Christ.”¹⁴⁵

¹³⁹ Hourton, J. Sexualidad, familia divorcio. Consideraciones desde la moral católica [Sexuality Family, Divorce: Considerations from Catholic Morality]. Santiago: Ediciones San Pablo, 1994.

¹⁴⁰ Given the importance of natural law in St. Thomas Aquinas, its principles should be understood. According to him, three types of natural inclinations exist. The first is distinctive of all substances: all aspire to preserve their being. The second is humanity, as per the nature shared with other animals: preserve the species. Natural law is “what nature taught all animals”, i.e., “the union of man and woman, the education of offspring, and suchlike” (i.e., marriage). Lastly, there are natural inclinations dictated by reason, such as the search for truth regarding God and life in society. (Ibid., 66-67).

¹⁴¹ Ibid.

¹⁴² “El divorcio con disolución de vínculo” [Absolute Divorce], *Mensaje* 401, August 1991, p. 292, in reference to Part II of *Forever United*, position paper on family and divorce by the Doctrinal Commission of the Chilean Conference of Catholic Bishops.

¹⁴³ “La Iglesia Católica y la Ley de Filiación” [The Catholic Church and the Paternity Act], *Mensaje* 471, August, 1998, p. 63.

¹⁴⁴ “Matrimonio y ley” [Marriage and the Law], by Juan Luis Ysern, Chairman of the Doctrinal Commission of the Conference of Catholic Bishops, *Mensaje* 473, October, 1998, p. 50. Ibid. in document C. August, 1998.

¹⁴⁵ Krebs, p. 38.

As Viera-Gallo notes,¹⁴⁶ secular states emerge as democratic systems leave behind practices dating back to the times of Constantine I, when the Church relied on political power to reinforce its mission and the State used religion for legitimacy. Once this monarchical paradigm became part of the historical record, it would take the Second Vatican Council for the Church to accept religious pluralism as part of modernity and secularization as a sign of the times.

At the turn of the 20th century the magisterium of the Catholic Church designated as modernism positions deemed dangerous because they stressed changes in theological doctrinal contents. It favored a Thomist and systematic scholastic education. The hardening of these positions gave rise to a conservative doctrinal style known as fundamentalism.

Vatican II (1962-1965), and its call to deal with the *signs of the times* addresses the importance of historical events. It proposes “to ascertain the development, growth, transformation and assimilations Christian faith can achieve in its dialogue with the cultures within which it dwells and in the temporal contexts among which it becomes incarnated.”¹⁴⁷ This new approach was a strong departure from the casuistic model prevalent since the Council of Trent. The Pastoral Constitution *Gaudium et Spes* on specific and decisive issues in the moral life of Christians constitutes “a real ‘treatise on values’, because it deals with our family, cultural, economic, social,

political, and international lives.” Modern morality would be characterized by a sea change in focus, from rules to personal responsibility.¹⁴⁸

However, in Chile there is a gap between “...statements on sexual ethics made by zealous orthodox priests and the teachings of most Catholic moral theologians. And this, particularly regarding sexuality and family ethics.” According to Hourton, “...this gap is parallel or similar -and often the same- to that between the moral theology texts we used 30 or 40 years ago (Genicot, Arregui, Zalba, etc.) and those commonly used today at theological and university institutions (Häring, Hortelano, Vidal, López Aspitarte, and without going too far afield, Father Tony Mifsud, from the Catholic University, Chile’s very own semi-official moralist).”¹⁴⁹

Key statements about the body, sexuality, and reproduction from the standpoint of the Roman Catholic magisterium include *Casti Connubii* (1930), which regulated marriage and stressed its purpose according to St. Augustine (offspring, faithfulness, sacrament);¹⁵⁰ *Humanae Vita* (1968), which accepted sexuality only within marriage, banned contraceptive use and reinforced the idea of “respecting nature”, “the purpose of the act of marriage” and “the inseparability of union and procreation”;¹⁵¹ Pastoral Care of Homosexuals;¹⁵² the *Veritatis Splendor* encyclical (1993), which defined contraceptive practices as intrinsically evil;¹⁵³ and *Sexualidad Humana: Verdad y Significado*¹⁵⁴ an educational guidance document for families.

¹⁴⁶ Viera-Gallo, J.A. Estado laico y matrimonio religioso [Secular State and Religious Marriage]. *La Segunda*, Tuesday, June 10, 2003.

¹⁴⁷ Hourton, p. 9.

¹⁴⁸ Autonomous morality, in turn, is based on the principles of responsibility, conscience, and freedom. Hopman, Jan. Sexualidad y cristianismo. Una relectura crítica a partir de la teología y el género [Sexuality and Christianity. A Critical Review from Theology and Gender]. In: Olavarría, José; Moletto, Enrique (eds.). Hombres: Identidad/es y Sexualidad/es [Men: Identity(ies) and Sexuality(ies)]. Masculinity Network. Chile: FLACSO, Christian Humanism University Academy, 2002.

¹⁴⁹ Hourton, p. 15.

¹⁵⁰ Pius XI. *Casti Connubii* on Christian marriage. Santiago: Ed. Paulinas, 1931.

¹⁵¹ Paul VI. Sobre la regulación de la natalidad [On the Regulation of Birth]. Santiago: Ed. Paulinas, 1968.

¹⁵² Ratzinger, Joseph. La atención pastoral de las personas homosexuales [Pastoral Care of Homosexuals]. Santiago: Ed. Paulinas, 1987.

¹⁵³ John Paul II. *Veritatis Splendor* encyclical letter. Santiago: Ed. Paulinas, 1993.

¹⁵⁴ López Trujillo, Alfonso. Sexualidad humana: Verdad y significado. Orientaciones educativas en familia [Human Sexuality: Truth and Meaning. Family Guidance] Santiago: Ed. San Pablo, 1996.

As to Protestants, Hopman notes the positive impact of Martin Luther's pronouncements on sexual morality, hitherto the sole preserve of Catholic theologians.¹⁵⁵ Citing Ranke-Heinemann,¹⁵⁶ he notes Luther's legacy on sexuality: the distinction between mortal and venial sin disappears from Protestant language, reasoning that all human beings are both sinners and righteous. The basic theological doctrine of justification by faith alone makes sexual fantasies that would attempt against human dignity collapse. Among 17th-century Jesuits, Luther's influence led to "cautious optimism about the views of human nature and, consequently, the sexual inclinations of man."¹⁵⁷

Obviously, Catholic statements on marriage, contraceptives, homosexuality, the family, etc., are not casual pronouncements. These are official documents prepared by theologians whose purpose is to restrict and control the faithful."¹⁵⁸

According to Bravo et al., "...since the beginning, Christianity established two domains for practice that often failed to march along the same path: on the one hand, doctrinal discourse as an idealization of moral behavior and, on the other, a certain acceptance of local habits and tradition that determined specific sexual practices at odds with official discourse. However, strictly speaking, sexuality is only doctrinally validated in marriage, which St. Paul of Tarsus regarded as a poor remedy against concupiscence since the ideal state for a Christian was celibacy and chastity. From the doctrinal basis proposed by Pauline texts primitive Christianity gradually assembled its idea of marriage and sexuality, thus shaping a formation in which no one element could be dissociated from the other."¹⁵⁹

The relation between the State and the Catholic Church in Chile has changed in the last few decades. A new Religious Practices Act has brought about a new relation between the State and religions and creeds.

In Chile and elsewhere in the region, involvement of conservative Catholics in the sexuality and reproduction debate has increased in recent years. Conscious of the importance attached to its regulatory role, the Catholic Church has given much play to its doctrinal and religious guidelines on sexuality, successfully turning them into almost mandatory reference.

A leading argument wielded by conservative Church sectors is the notion that societal well-being requires adherence to ethical and moral values in order to fend off the imminent decline of traditional moral values. They oppose the view that well-being is attained by applying the rules of social coexistence in a realistic, pluralistic manner. At their most radical, conservatives espouse fundamentalist views that are injurious to basic principles of freedom and autonomy.

However, Protestants and former Catholics critical of the Vatican have been making a series of theological reflections that review the encyclical paradigm. Nowadays, they too influence or to a certain extent determine not only the discourse of sexuality and reproduction, but also its imagery. This theological perspective celebrates the pleasure factor in sexuality that patriarchal and heterosexist views have eagerly tried to minimize or restrict only to men, thus breaking down canonical interpretations of desire and pleasure that Jewish tradition and Catholicism have set throughout history.¹⁶⁰

¹⁵⁵ Ranke-Heinemann, Ute. *Eunucos por el reino de los cielos, Iglesia Católica y sexualidad* [Eunuchs for the Kingdom of Heaven: Catholic Church and Sexuality]. Madrid: Ed. Trotta, 1994.

¹⁵⁶ Ibid.

¹⁵⁷ Hopman. *Op. cit.*, p. 147.

¹⁵⁸ Ibid.

¹⁵⁹ Bravo, R.; Dides, C.; Pérez, S. In: Dides, C.; Canales, D.; Isla, P.; Pérez, S. "Diagnóstico sobre sexualidad, corporalidad, salud sexual y reproductiva en comunidades cristianas y macroecuménicas en Santiago" [Diagnosis on Sexuality, Corporality and Sexual and Reproductive Health in Christian and Interfaith Communities in Santiago]. Santiago: GES (unpublished), 2002.

¹⁶⁰ Ibid.

For her part, Lene Sjørup¹⁶¹ discusses the emergence of the Vatican as a political player with an hegemonic discourse on abortion and contraception at the Cairo and Beijing Conferences. While the Holy See has many reasons to advance a hegemonic policy, in regard to health and reproductive rights these have had to do with the special interest 20th-century popes have taken in women's private lives and, particularly, their bodies.

Since the Catholic Church has lost ground in politics, education, social service, etc., women's private lives and bodies take on renewed importance. Operating in the international arena as a conventional hegemon, "the Holy See, while demanding strict ethics in the domain of women's health and reproductive sexual rights, uses an almost Machiavellian double standard regarding political power. It operates as a conventional political player rather than a religious entity whose political and ethical standards could have influenced international politics."¹⁶²

The Roman Catholic discourse on reproductive rights has no further support than its own magisterium, as no explicit reference to these issues is to be found in the Old or New Testaments. In the mid-18th century a clear tendency emerges to deal with abortion and contraception in an increasingly strict manner. In the early '60s a special commission convened to deal with the subject produced a "Responsible Parenthood" report which went as far as allowing contraception. "However, Pope Paul VI maintained the ban in his Encyclical *Humanae Vitae*, published in 1968 after Vatican II, arguing that "every conjugal action should always be open to the endurance of life".¹⁶³

Abortion in all forms is condemned as a serious sin by the Roman Catholic Church. In *Evangelium*

Vitae (1995), Pope John Paul II speaks of a "widespread contraceptive mentality, a pro-abortion culture, a hedonistic mindset, a self-centered concept of freedom that considers procreation an obstacle to personal growth."¹⁶⁴

Thus, the Roman Catholic Church takes the side of the instituted: "...the Pope describes a worldview based on an essential dualism that places the Catholic Church unreservedly on the side of good. Once there, the Pope defines the responsibility of humankind as choosing to be unreservedly pro-life. In so doing the Pope claims to be the direct successor of the Apostles, someone whose legitimacy comes from Peter and, ultimately, from Jesus, natural law, the word of God and the magisterium too."¹⁶⁵

The papal discourse on abortion is built upon deduction and tautology. God is the Lord of life; human beings have no right to take away the lives of (innocent) human beings; life begins at conception; abortion equals the taking of innocent life.¹⁶⁶ The strength of this theology lies in its serious approach to life; its weakness in the fact that life is solely associated with the fetus. To the writer, this universalist discourse based on natural law as interpreted by the magisterium understands women as universal, heroic and selfless. While praising women who sacrifice themselves for their faith in God, the Catholic Church seeks to become an hegemonic religion and an international organization at the expense of women, probably its single-largest group of faithful."¹⁶⁷

Yet, the hegemonic discourse of the Roman Catholic Church is defied from within. "By the end of this decade (1960), a group of Jesuits -the conservative *Grupo Belarmino*- defended the

¹⁶¹ Sjørup, Lene. The Vatican and Women's Reproductive Health and Rights. *Feminist Theology* No. 21, 1999.

¹⁶² *Ibid.*, p. 82.

¹⁶³ Sjørup, Lene. Religión y reproducción: el Vaticano como actor en el campo global [Religion and Reproduction: The Vatican as Global Player]. In *Con-spirando Magazine* No. 32. Santiago: 2000, p. 41.

¹⁶⁴ *Ibid.*

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

¹⁶⁷ *Op. cit.*, p. 87.

population policy (of Eduardo Frei Montalva's government) by making a difference between *abortive* and *contraceptive* methods. They held that the traditional Catholic view was untenable among the poor. "To expect that periodical or total chastity could be an alternative solution seems simply naïve to us... This method requires a level of culture and human and psychological maturity we cannot demand from people who are malnourished, ignorant, influenced by alcohol and guided by primitive pseudo-values."¹⁶⁸

This and other discourses revealed fissures in the hegemonic discourse of the Roman Catholic Church. In 1967, Cardinal Raúl Silva Henríquez indicated that contraceptives might not be immoral, unlike "abortion, a crime under any circumstances." Yet in 1968, in the so-called Declaration of Las Rosas, Chilean bishops disapproved of articles published in *Mensaje* favoring contraception.¹⁶⁹ Was the Jesuit magazine becoming a mouthpiece for alternative views?

Beyond the discourses of sense-organizing systems established in the collective mind by the power of the supporting institutional framework, there are the experiences of daily life of the women subject to these policies and regulations but who have the potential to make their own decisions about their bodies. Lene Sjørup concludes that "While the universalist discourse is determined chiefly by men who regard women's bodies as objects of knowledge, the individual narrative is told by women who may say one thing, yet do another. This is a form of resistance; social and material circumstances can undermine the discourse of power from the inside, sometimes forcing individuals to become hypocrites, but allowing them to survive by doing so. This is why,

although the Catholic Church intervenes in hospitals, schools and other outlets of national culture, as well as in the dual international discourses on the reality of the First/Third Worlds, Catholics are quite used to negotiating this strong religious influence."¹⁷⁰

Economic, social and cultural changes occurring in the past decade have also affected churches, religious participation and religiosity. In Chile, the Catholic Church played an important role in the defense of human rights during the military dictatorship. Yet, its position on human rights and sexual and reproductive rights is marked by paradox. Ever since the '50s, the Catholic Church was actively concerned about poverty, injustice and inequity; then it played a key role in defending human rights during the Pinochet regime. Yet in the field of sexual and reproductive rights, it has turned into the chief hurdle and accuser whose strong impact on discourses related to sexuality and reproduction often influences public policy.¹⁷¹

Catholic hegemony on moral issues also impacts other Christian churches, oddly absent from the media although growing segments of the population belong to Evangelical Protestant denominations such as the Pentecostals, popular among the poor.

The official position of the Chilean Catholic leadership is neither the only nor the ultimate Catholic moral guideline. There are good Catholic arguments that consider it inappropriate for a democratic, pluralist society. One is autonomous morality, which is more consistent with the reality and needs of Chilean society.¹⁷² Another case in point are the arguments advanced by the local chapter of Catholics for a Free Choice. However,

¹⁶⁸ Ibid. (Quoting Larraín, 1996.)

¹⁶⁹ Ibid.

¹⁷⁰ Ibid., p. 43.

¹⁷¹ In the '90s various government policies were boycotted, notably the Education Ministry Sex Education Policy, the Conversation Workshops on Relationships and Sexuality (JOCAS) and CONASIDA's HIV/AIDS prevention campaigns. At present, and after several postponements, some municipalities are implementing a Responsible Sexuality Pilot Plan. Initiatives such as the Framework Bill on Sexual and Reproductive Rights, a joint effort of civil society and lawmakers, lie dormant in Congress.

¹⁷² Hopman. Op. cit., pp. 148-153.

these groups still lack influence among the leadership.

4. Sexual and Reproductive Rights Players and Advocacy Strategies

Chile's social and political scenario appears divided into Catholic conservative and progressive, modernizing camps.¹⁷³ However, although ingrained in the collective mind, such polarization does not fully account for Chilean reality, where many more players coexist. Rather than black and white, the situation is many shades of grey.

As noted, since the '90s there is tension between advocates of reproductive autonomy and those who would revert women's gains and even question family planning policies on behalf of "natural law". This decade has also brought a debate on the unsuitably named value issues, where social actors, including the Church, have fluctuated between reproduction control and timid recognition of rights. In this context, some conservative groups have tried to polarize the debate between those who love life and those who do not.¹⁷⁴

The camps for and against sexual and reproductive rights have grown more complex, as cracks, shifts and realignments give way to positions more intermediate yet no less complex. The players involved include from rigid to open positions and represent civil society, universities, State, churches, NGOs, etc.

Intervention has used classical advocacy strategies such as mobilizing, obtaining support and creating political and social alliances to push for change or

consolidation of positions. Advocacy encompasses protection, promotion, defense and theoretical construction of sexual and reproductive rights. As Dides notes, advocacy requires empowerment, awareness of power relations that seek social control, and the need to advance solid arguments.¹⁷⁵

In general, advocacy strategies have targeted the media, education, research, Congressional lobbying and public policymaking, as well as construction and consolidation of alliances. A case in point was the Beijing conference, which elicited much controversy as right-wing groups reacted angrily against the Chilean government report. Several widely read news dailies ran articles questioning the report's objectivity and its radical feminist bias. Catholic representatives and the ambassador to the Vatican requested meetings with the Minister for the Status of Women (SERNAM) to hear Chile's official position. Conservative Catholic groups increased pressure on the government, charging predominance of a feminist bias while calling into question SERNAM's Equal Opportunity Plan, which advances concepts such as gender, family, and reproductive rights, among others.

Shepard asserts that understanding contradictions and paradoxes in the field of sexuality and reproduction in Latin America requires an understanding of a "double discourse" system¹⁷⁶ whereby societies manage to accommodate antagonistic points of view on sexuality and reproduction. "A system which defends repressive or negligent public policies while tolerating unofficial -and often illegal- mechanisms, enabling individuals private access

¹⁷³ Olea, Raquel; Grau, Olga; Pérez, Francisca. El género en apuros [Gender in Trouble]. *Contraseña* Collection. Studies on Gender; Cassandra series. Santiago: Editorial LOM, 2000.

¹⁷⁴ Casas, Lidia. Mujeres y reproducción ¿Del control a la autonomía? [Women and Reproduction. From Control to Autonomy?]. Santiago: Faculty of Law, Diego Portales University (unpublished), 2002.

¹⁷⁵ Dides, Claudia. Discursos y debates sobre anticoncepción de emergencia: Aprendizajes en advocacy sobre salud sexual y derechos humanos [Discourses and Debates on Emergency Contraception: Lessons in Sexual Health and Human Rights Advocacy]. Lima: Cayetano Heredia University, May, 2003.

¹⁷⁶ Shepard, Bonnie. El "doble discurso" sobre los derechos sexuales y reproductivos en América Latina: el abismo entre las políticas públicas y los actos privados [The "Double Discourse" on Sexual and Reproductive Rights in Latin America: The Chasm between Public Policy and Private Actions]. 2000.

to a wider variety of options about their sexual and reproductive lives.”¹⁷⁷

This illustrates the paradox of Chilean society, where public life bows to traditional, repressive sociocultural rules which are then ignored or breached in private life. It focuses on a political and cultural gap between public defense of traditional religious precepts restricting individual options and private acquiescence to expanded choice, complemented by social and political mechanisms making for a broader range of sexuality and reproduction choices.

Double discourse, writes Shepard, originated in predominantly Catholic cultures and shows through in the sex education debate held in Chile, where “...reformers argued that they were simply acknowledging reality and the risks of teenage sexual behavior, while their “hypocritical” adversaries were hiding their heads in the sand. Conversely, those who did not want sex education to become a public health issue accused reformers of permissiveness and promoting promiscuity.”¹⁷⁸ In between the conflicting positions there are safety valves; mechanisms to solve the problem under the table. Such is the case of having annulments rather than divorce legislation and clandestine abortion while keeping it a criminal offense.

Double discourse and the politics of accommodation hurt primarily the poor and, in the sexuality and reproduction areas, women. As a key disadvantage, the author cites costs at various levels: “When no official solution for expanded sexual and reproductive choice is available, if existing ones are clandestine and/or depend on the views of professionals such as health care providers, no one has guaranteed permanent access to such solutions and no one can supervise the quality of the services provided. This makes the legal and health consequences fall disproportionately on the vulnerable and

disenfranchised.”¹⁷⁹ Political costs are borne by anyone who dares to dissent, thereby leaving themselves open to the explicit or implicit sanction of the Catholic Church and conservative defenders of the hegemonic order.

In double-discourse contexts such as Chile, Shepard proposes three sexual and reproductive rights advocacy strategies: use public health and ethical arguments both, reduce risk for political actors, and remove the safety valves. Directly ruling out the third option, she then advocates using solid sexuality and reproduction epidemiological data with target groups, adapting the emphasis as required. She does warn about resistance from religious groups wielding “sacred” rules.

Diversity provides an additional advocacy strategy: “As religious diversity has grown significantly stronger in Latin America and Catholic-tradition countries, the argument turns into a strong advocacy tool.” A complementary strategy is to work with other faiths to demand public policies not beholden to a specific creed.

Shepard notes that use of human rights terminology by reform opponents is on the increase, “...citing, for example, the right of the fetus to life or the right of parents to control their children’s education. Unfortunately, this type of argument leads to a clash of rights and futile debates: teenage vs. parental rights, women’s rights vs. those of embryos. In Latin America, however, Catholic doctrine establishing that life and human rights begin at conception and considering premarital sex unacceptable is set within these arguments, so for those who promote sexual and reproductive rights it would be useful to dissect these in order to show them as based on the doctrines of a hegemonic faith.”¹⁸⁰

Opinion polls support spurring debate by raising arguments from various sectors as well as expanding

¹⁷⁷ Ibid.

¹⁷⁸ Ibid., p. 6.

¹⁷⁹ Ibid., p. 16.

¹⁸⁰ Ibid., p. 18.

rights coalitions. Consensus conventions and statements and international agreement follow-up have become key tools for advocacy on sexual and reproductive rights: “The usefulness of this strategy lies precisely in the fact that it legitimizes sexual and reproductive health and rights as fundamental political issues, reducing the political risk associated with advocacy.”¹⁸¹

In Chile, progress on sexual and reproductive health is obstructed by an unrelenting counteroffensive from conservative groups close to the Catholic Church. The Church stand against introduction of sexual and reproductive issues into legislative initiatives, public policy, government programs and commitments under the CEDAW Optional Protocol was somewhat weakened after the Census of April 2002, which revealed that the Catholic population is actually declining.¹⁸²

The use of image-based, high-impact advocacy strategies grew rapidly in the “90s as various groups used the female figure as an ideal vehicle for value reinforcement, notably in communication and education campaigns on abortion, violence, sex education, and fertility regulation. The ministries of Education, Health and the Department on the Status of Women (SERNAM) were the key public policy players in this period. These advertising drives hinged on national and international issues. One such drive took place prior to the Beijing Conference.

The Catholic Church and Christian organizations conceived the Union for Life and Dignity Plan, organized pilgrimages to a local shrine to the Virgin of Carmen, Patron Saint of Chile, and wrote the President urging him to take a stand for the monogamous, heterosexual family unit.¹⁸³ The media closely followed debates in the political parties and in the Chamber of Deputies on the position to be taken to Beijing by the Minister for SERNAM. As the conference drew near, the Vatican wrote a “Letter to Women”, acknowledging the historical discrimination against them.

The Catholic Church set itself up as a moral guarantor¹⁸⁴ and recognized actor in the debate on women’s issues and in the search for political solutions. A common Church strategy was to meet directly with government officials on specific situations -after Beijing, for example, the Cardinal for Santiago met with the Minister for SERNAM to demand an explanation of the Chilean position at both the Beijing and preparatory conferences.

Significantly, groups opposing sexual and reproductive rights do not oppose them across the board. For example, they concur on women’s health care and provision of prenatal and postpartum care.

Chief among Catholic players presenting the strongest opposition are the Opus Dei¹⁸⁵ and the Legion of Christ,¹⁸⁶ radical groups who base their

¹⁸¹ Ibid., p. 20.

¹⁸² A controversy was triggered by a mass e-mail calling people to reflect on their true attachment to the Catholic faith when answering Census questions. The intent was to highlight the existence of other faiths and to show widespread displeasure with obstructionist Catholic tactics in the domains of personal freedom, family, and sexual and reproductive rights.

¹⁸³ According to Olea, Grau and Pérez, this has to do with conservative fears that broadening the concept of family may usher in legal acceptance of homosexual relationships and abortion as part of reproductive rights. P. 20.

¹⁸⁴ Ibid., pp. 22.

¹⁸⁵ Founded in Spain by priest Josemaría Escrivá de Balaguer as a “pious union of lay people”, it became a “secular institute” of the Church in 1947. John Paul II then declared it a “personal prelature”, similar to a diocese but without territorial limits. Its objectives are to actively follow the universal call to sanctity and to a spirituality based on the sanctifying value of daily work. Members are married, single or widowed men and women as well as priests and laymen/laywomen of all races, age and class. An international financial network helps with their upkeep in Chile. The Pope has appointed several Opus Dei bishops in Latin America (in Chile, Adolfo Rodríguez and Luis Gleisner). See www.opusdei.cl.

¹⁸⁶ The Legion of Christ was founded in Mexico in 1941 and is currently in its 20th year in Chile. It has positioned itself as “the new Christian conservative moral order; the Vatican’s Latin America counteroffensive against Liberation Theology”. It emphasizes education, notably providing leadership training to scions of wealthy families. Current enrollment stands at 60,000 in over 120 schools and eight universities in Mexico, Chile, Brazil, Colombia, and Venezuela. In Chile it operates Finis Terrae University which, in keeping with Legion objectives, has started a Family Sciences Department. Funding comes primarily from U.S. sources, notably the Dan Murphy Foundation and the Family Foundation, as well as large German contributors.

arguments on incontrovertible dogma issuing from divine sources and the faith of believers, notably appeals to “revealed truths”, “natural law” and “divine law”. This severely limits the range of debate.

The sexual and reproductive rights field is populated by a significant number of players. To account for the different levels of tension among them and illustrate some of their strategies, we will now review abortion, sex education, HIV/AIDS, fertility regulation and sexual and gender violence.

a) Abortion

An aspect of sexual and reproductive health generating much controversy and opposition is the ban against all forms of abortion. Bravo, Dides and Pérez note that “...this shows that preconceptions about motherhood overrule women’s life and dignity, secularizing an omnipotent power that rules over life and death - the State as inheritor and representative of *Deus Pater*. The ‘life’ of the fetus belongs not to the mother, an instrument for the procreation of children for God and State. As the origin of life is not women but an external entity, they are mere contributors to a process decided by a religious or political divinity”¹⁸⁷ which deem themselves in a position to condemn and punish. “Criminalization of all abortion, even in case of rape, is tantamount to cruel and inhuman treatment.”¹⁸⁸

While abortion is the most contentious subject of all, it is expressly excluded from public debate due to the near futility of debate between seemingly irreconcilable positions. For example, in his campaign President Lagos said he favored reinstatement of therapeutic abortion but withdrew his statement after conservatives levelled charges of harboring anti-life feelings.¹⁸⁹

Both opponents and advocates of sexual and reproductive rights resort to a range of communication strategies. A case in point is the *Acoge una vida* [Shelter a Life] anti-abortion campaign of Fundación Chile Unido,¹⁹⁰ a group which runs shelters for women who intend to abort and uses technology and medical fact to both illustrate its vision and charge families, schools and peers with inciting young women to abort. These efforts, mostly radio and TV spots and posters in public areas, are aimed at women of childbearing age and society as a whole and speak about the joy a new child brings and the role of individuals as fathers and mothers.

Among sexual and reproductive rights advocates, Grupo Iniciativa¹⁹¹ has fostered the rights debate, notably on abortion. The Sexual and Reproductive Health and Rights Forum¹⁹² and LACWHN have played a key role in the campaign to legalize abortion. The Health and Social Policy Corporation

¹⁸⁷ The root of the term *procreation* already contains the idea of shared creation in which humans participate only collaterally.

¹⁸⁸ Casas, Lidia. “Mujeres procesadas por aborto” [Women Prosecuted for Abortion]. Open Forum on Health and Reproductive Rights. Santiago: 1995, in: Women’s Institute Foundation, Op. cit.

¹⁸⁹ Ibid.

¹⁹⁰ Established in 1998 by the Opus Dei and the Legionnaires of Christ. It bills itself as a private, independent non-profit institution whose purpose is to study and disseminate the social and cultural values that serve as a basis for “the human progress of the country”. Programs include the *Comunicate* and *Acoge una vida* anti-abortion campaigns. It conducts seminars, workshops and guidance interventions targeted at students, teachers and parents at poor schools. Its social work department operates community programs and hotlines offering guidance and support on family issues.

¹⁹¹ Created in 1994 in preparation for the FWCW by CEDEM, CEM, CEMERA, FLACSO, GIA, the Women’s Institute, ISIS International and PIIE. The group launched a debate on a diagnosis of the status of Chilean women, focusing on daily life, sexual and reproductive rights, health and violence.

¹⁹² Founded 1989 by social organizations, women’s groups, NGOs and practitioners of various disciplines, including health, education and communication. It brings together institutions working for sexual and reproductive health and rights. At present it comprises 30 organizations based throughout Chile. It calls upon men and women, without distinctions of age, gender, marital status, ethnic group, class, faith or socioeconomic condition, to create social, legal, cultural and economic conditions for free choice on sexuality and reproductive issues and promote debate, reflection and collective action on sexual and reproductive health and rights (Foro Magazine, pp. 2-3).

(CORSAPS)¹⁹³ and the Reproductive Medicine Institute of Chile (ICMER)¹⁹⁴ conduct social and biomedical research for use in debates and construction of public opinion. CORSAPS has convened a Working Group on Reinstatement of Therapeutic Abortion. Lastly, La Morada¹⁹⁵ set up a working group on abortion law reform.

In recent years, religious foes of sexual and reproductive rights have increasingly looked to science for support. Rights advocates have done likewise, highlighting the social responsibility implicit in the abortion issue. Opponents use the same arguments as rights advocates, including social responsibility, but they use them to reinforce the issue of sin: “Opting for abortion . . . is always a grave sin. Rather than a responsibility of women, abortion is a crime.”¹⁹⁶

b) Sex Education

This is a thorny issue involving many players, notably the Ministry of Education, the Catholic Church and sexual and reproductive rights advocates. Government initiatives in this respect include a 1993 Policy on Sexuality, the 1997

Conversation Workshops on Relationships and Sexuality (JOCAS) initiative and the 2002 Pilot Plan on Responsible Sexuality.

In general, both friends and foes of sexual and reproductive rights favor education as a strategy. For the Catholic Church it is a primary strategy, used to promote its plans, educate the young, and focus attention on sexuality and family. Apostolic movements for youth and families have operated programs such as *Familia Unida* [United Family] since 1950.¹⁹⁷ The Vicariate for Education has worked with parents since 1982 and runs workshops for parents and teachers since 1995, notably “Project Teen Star”.¹⁹⁸ In 2002 the Opus Dei held an international conference on fundamental marriage and family values and children’s education from the standpoint of both parents and schools.

The Catholic educational strategy, as implemented by the Vicariate for the Family, focuses on the private domain under parental responsibility. “Three aspects are emphasized: individual support, parental education and objective biological teaching.” It defines the family unit as the primary school for teaching sexuality.¹⁹⁹

¹⁹³ CORSAPS contributes to the formulation, implementation and assessment of social and health policy, plans and programs in Chile and Latin America through proposals, applied research, teaching and consulting for public and private organizations. Since 1997, the CORSAPS Policy and Legislative Support Program has been helping lawmakers introduce changes in sexual and reproductive health legislation and policy. CORSAPS has organized and participated actively in proposing and securing adoption of new voluntary sterilization regulations, in drafting the Framework Sexual and Reproductive Rights Bill and in the introduction and court defense of emergency contraception. In association with the Ministry of Health, the Policy and Legislative Support Program has convened Working Groups on Informed Consent, Patient Confidentiality and Sterilization.

¹⁹⁴ Non-profit foundation created in 1985 to research factors impacting sexual and reproductive health and apply this knowledge toward improving the health and well-being of the population. It provides free health care to low-income groups and at low cost to others. Research interests include the physiology of reproduction and pregnancy, breastfeeding, infertility, fertility regulation, and growth and development of children. It is also involved in social sciences and health care programs and in training health practitioners. It sits in national working groups on health service intervention and in international working groups on health technology and policy. The Social Sciences Unit, created in 1992, is in charge of comprehensive sexual and reproductive health research and services, introducing a gender perspective, endorsing dialogue amongst disciplines and networking with other organizations. Its social scientists and biomedical experts work together in the Multidisciplinary Research and Training Department. ICMER has conducted research into quality of care and health service operation, comprehensive postpartum care, acceptability of contraceptive methods, emergency contraception and informed consent in clinical studies.

¹⁹⁵ The Santiago-based La Morada Women’s Home was created in the ‘80s by prominent feminists active in education, literature, law, and psychology. They conduct advocacy, research, education and communications activities and operate the *Tierra* Radio Station.

¹⁹⁶ Pope John Paul II’s Letter to Women.

¹⁹⁷ At leading Catholic schools such as San Ignacio, Salesianos, Verbo Divino, Teresiano, etc. (Fernández, 120).

¹⁹⁸ Sexuality in the context of an adult responsibility; directed by Dr. Pilar Vigil and supported by Dr. Stan Weed, of Utah.

¹⁹⁹ Fernández, 120.

On the government side, Bravo et al. note that the Ministry of Education has made sure to protect and perpetuate traditional family images and roles: “In our society, sex education is, first and foremost, a family responsibility. But since sexuality deeply affects social coexistence, responsibility for education is shared by the institutions that work together with families. The support schools can offer is supplementary; as sex educators, they can assist but not replace the family. It is within the family where one learns to be a man or a woman and the roles and value of each.”²⁰⁰

A Social Studies Group (GES) review of recent government statements on sexuality and reproduction found that “...a preliminary 1991 version of the governmental plan named *Towards a Sex Education Policy for Improvement of Education Quality* was significantly similar to the policy announced in 1997, notably on issues such as the role of the family unit, the importance of religion in defining the value framework for sex education policy, and the stigmatization of teenage sexual behavior and dismissal of their ability to independently ascertain their interests and needs.” “The influence of ideological and religious systems on the design and implementation of government policy on sexuality and sexual and reproductive health is evident. As noted by Bravo et al., the Catholic ideologem of the traditional, nuclear family unit pervades the sexual policy model in education and health. The JOCAS initiative is a case in point, as the task of discussing ‘value contents’ was immediately assigned to the Catholic Church, thereby excluding other voices, ethics, and sensitivities”.²⁰¹

²⁰⁰ Ministry of Education, op. cit.

²⁰¹ Ibid.

²⁰² Ibid., Fernández, p. 84.

²⁰³ Created in 1984 in the context of the First Regional Meeting on Women’s Health held in Tenza, Colombia. It filled a need for region-wide coordination on women’s health and rights and quality of life advocacy. It plays an important role in information and promotion of sexual and reproductive rights, violence, AIDS and other issues.

²⁰⁴ The Women’s Institute works to promote equal opportunity and build women’s leadership skills. It conducts training, consultancy and research, formulates policy proposals on inequality and gaps impacting women, and monitors international instrument compliance.

²⁰⁵ The Family Protection Association is an non-governmental institution working to promote sexual and reproductive health and rights. It produces vast amounts of educational materials, often in collaboration with key private and government institutions.

²⁰⁶ Adolescent Medicine Center of the University of Chile. Conducts research as a primary advocacy strategy.

JOCAS, a pilot sex education program intended to help secondary students freely discuss abortion, condom use and premarital sex, was met with acerbic opposition. The Family Vicariate of the Catholic Church criticized the use of statistics to validate policy: “The only verifiable figures refer to women discharged from health care facilities following post-abortion treatment. (...) these tend to decrease progressively. (...) These figures are unreliable... and do not reflect reality.” The Church added that statistics were being manipulated to “rush through emergency solutions, such as information on condom use, precisely as the number of abortions, as the Ministry of Health can verify, is on the decrease.”²⁰² The Church was clearly researching and reviewing scientific data to support its arguments, which opened up a new scenario for public discussion.

Many rights advocacy groups assisted in the formulation and implementation of sex education policy, notably the controversial JOCAS effort. These include the Sexual and Reproductive Health and Rights Forum, CORSAPS, ICMER, the Latin American and Caribbean Women’s Health Network (LACWHN),²⁰³ the Women’s Institute,²⁰⁴ APROFA,²⁰⁵ CEMERA,²⁰⁶ and EDUK, all of which have been involved in educational campaigns, forums, research, and production of educational materials. Some, including EDUK, CEMERA, APROFA and CEGECAL, have continued to make a strong contribution to the design and implementation of educational models on sexuality.

Other key players include university-based gender programs, which have worked closely with NGOs and civil society in strategy design.

These include CEGECAL, the Gender Program of the Faculty of Philosophy and Humanities of the University of Chile, which created a sexuality conversation model; the Bioethics and Public Health Research Center of the University of Santiago,²⁰⁷ which offered seminars on sexual and reproductive rights and was active in promoting these rights, and the Gender and Society Program of the Christian Humanism University Academy, which has standing strategic partnerships with NGOs and foundations and conducts activities throughout the country.

c) HIV/AIDS

Despite Catholic opposition to condom use as a prevention method, CONASIDA forged a strong alliance with groups of people living with HIV. These groups, notably Vivo Positivo,²⁰⁸ have become key players in the implementation of educational, communication, and research strategies and in pushing for legislative initiatives such as the Law on Prevention of Human Immunodeficiency Virus Infection, known as “the AIDS Act”. This law was passed unanimously as people living with HIV/AIDS filed legal action against the State with massive public support. The law penalizes discrimination and requires the State to provide comprehensive care -in certain cases, free of charge- to people living with HIV/AIDS.

Despite enactment of this law, other obstacles remain for implementation of more active campaigns in HIV/AIDS and teenage pregnancy prevention, for example. Nevertheless, dialogue between civil society and the Ministry of Health is now more fruitful as a result.

Chile is currently implementing “Expanding and consolidating participatory, decentralized, intersectorial responses to HIV/AIDS”, a joint initiative of the Ministry of Health, Vivo Positivo and concerned NGOs, with funding from the Global Fund on AIDS, Tuberculosis and Malaria.

Significantly, recent prevention campaigns by both government and NGO groups have begun using images of men as well as women. This has reduced the stigma on people living with HIV/AIDS, revising as it does the link between HIV and homosexual or promiscuous behavior. Sexual and reproductive rights advocates themselves used images of a wider range of social actors.

d) Fertility Regulation

The Sexuality Working Group is a recent joint initiative of the Ministry of Health and sexual and reproductive health and rights groups.²⁰⁹ The Working Group has reviewed and proposed key changes to family planning regulations, sexual abuse protocols, a bill of health rights and duties as part of planned health reform, and sexual and reproductive health for adolescents and the young.

Some tensions do remain but seem restricted to rhetorical flourishes and to the provision of contraception to teenagers in public primary care facilities. As a result, such decisions often rest with particular health care providers.

In addition, a recent debate on emergency contraception (EC) has resurrected the values debate. Some so-called pro-life groups²¹⁰ have argued that EC is abortive and is an attack against the life of the conceived and the unborn. These

²⁰⁷ Shut down in 2000. The Faculty of Medicine has a new Bioethics Program.

²⁰⁸ Coordinating Committee of People Living with HIV/AIDS. It works on response to society and quality of life issues, including defense of citizen's rights, access to treatment, health promotion, prevention and networking. Vivo Positivo was the first such group to secure both HIV/AIDS legislation as well as free drug coverage.

²⁰⁹ Members include ICMER, APROFA, CORSAPS, CEMERA, the Sexual and Reproductive Rights Forum, PAHO/WHO and the Health Ministry's Women's Program, CONASIDA, and Program for Adolescents.

²¹⁰ Frente por la vida y la acción solidaria [Alliance for Life and Solidarity Action], ISFEM, Centro internacional para el estudio de la vida humana [International Center for the Study of Human Life] and World Movement of Mothers. In: Dides, Claudia. Anticoncepción de emergencia: derecho a ser oídas [Emergency Contraception: The Right to Be Heard]. Proceedings of the 3rd Women's Rights Tribunal. Santiago: Women's Institute, 2001.

groups have taken the issue to court and launched a powerful media drive against it, turning a matter of public health into a legal issue.²¹¹

Judicial review of emergency contraception opened up a new venue for advocacy. On August 30, 2001 the Supreme Court overturned a government licence allowing Silesia Laboratories to manufacture Postinal.²¹² In December 2001 the Court was asked by pro-life groups to make the restriction extensive to Postinor-2, an equivalent drug made by another drug company. The Court declined and the drug is legally manufactured since. Postinor-2 is sold with a retained prescription and is not yet available from public health facilities. Special note should be made of the active involvement of the many sexual and reproductive rights groups which joined with ICMER and CORSAPS in 1997 in launching the Expanded Group,²¹³ an initiative designed to help monitor progress of the Sexual and Reproductive Rights Bill and conduct biomedical, juridical, rights and bioethical research.

There was also a concerted effort made through the CORSAPS-convened Working Group on Sterilization, established to press for a review of regulations on voluntary sterilization which look good on paper but do not guarantee provision of relevant services.

Lastly, LACWHN and the Sexual and Reproductive Health and Rights Forum focused health and rights strategy on the exercise of citizenship and held rallies and drives in support of voluntary motherhood.

e) Sexual and Gender Violence

Sexual and gender violence has not been a significantly contentious issue in recent years. After the Domestic Violence Act of 1995 was enacted, many players which had fought for its implementation, especially women's organizations and anti-violence networks -both Catholic and non-Catholic- quietly dropped out of sight.

SERNAM conducted campaigns with emphasis on domestic violence, started CIDEM Information Centers and provided psychological and legal support for victims of sexual violence. Municipalities created women's shelters, many of which subsequently closed from lack of funds. Follow-ups on the Domestic Violence Act by the Women's Institute and the Diego Portales University Faculty of Law ascertained that goals remain unaccomplished as there were no education initiatives, most sanctions go unheeded and there is an acute shortage of victim care centers.²¹⁴

Significantly, various churches and the interfaith world at large made their views known in a joint public statement condemning all forms of violence.

While ecumenical groups do not explicitly include violence within sexual and reproductive rights, they do speak out from a human rights perspective. One such group is *Misión 21-Chile*,²¹⁵ which seeks to contribute to "the search for ways in which the economically,

²¹¹Casas, Lidia. Mujeres procesadas por aborto [Women Prosecuted for Abortion]. Open Forum on Health and Reproductive Rights. Santiago: 1995, in: Women's Institute Foundation, op. cit.

²¹² Trade name of the emergency contraception product.

²¹³ A lobby for passage of the Framework Sexual and Reproductive Rights Bill. Created in 2000 and comprised of APROFA, La Quimera Women's House, the Center for Women's Studies (CEM), CEMERA, CIPRESS, CORSAPS, the Chilean Corporation for AIDS Prevention, the Sexual and Reproductive Health and Rights Forum, the Social Studies Group (GES), ICMER, the Women's Institute, the Unified Sexual Minority Movement (MUMS) and Vivo Positivo.

²¹⁴Dides C.; Pérez M. S. Estudio cualitativo sobre percepción de demandantes sobre efectividad de la Ley 19325 para SERNAM [Qualitative Study of Plaintiff Perception on the Effectiveness of Law 19325 for SERNAM]. Law Research Center, Faculty of Law, Diego Portales University, 2001.

²¹⁵ Founded 2001. In March 2003 the Latin American Continental Assembly partnered up with *Misión 21* in Peru and Bolivia and with continental organizations such as Ecuador-based Latin American Council of Churches (CLAI), Costa Rica-based Ecumenical Research Department (DEI) and Universidad Bíblica Latinoamericana, Buenos Aires-based Evangelical Institute of Theological Studies (ISEDET), and SERPAJ Latin America. Members include the Christian Fraternity of Churches (CCI), Diego de Medellín Ecumenical Center, Conspirando Collective, the Evangelical Theological Community, the Chilean Methodist Church, Service for Community Development and Education (SEDEC), Evangelical Development Service, and Peace and Justice Service (SERPAJ). The Chilean Ecumenical Fraternity (FRAECH) intends to become a Christian meeting place with a view to expanding dialogue and understanding among churches and their traditions.

socially and culturally disenfranchised can build on their resources and abilities so as to actively participate in the promotion of fairer, more hospitable and inclusive communities reflecting that God's mission is a common mission for the entire world." The groups works to cross-integrate ecumenism, gender and environmental issues, with special emphasis on the promotion of culture, diversity and civic participation.

In addition, actors such as Centro Diego de Medellín and Colectivo Con-spirando have supported sexual and reproductive rights work through educational and research strategies. Also worthy of note are the activities of Catholics for a Free Choice, a group which has acquired increasing prominence through their defense of sexual and reproductive rights.

Special mention should be made of the Sexual and Reproductive Rights Bill,²¹⁶ a recent initiative that succeeded in garnering much support from a wide range of NGOs, academics, scientific institutions, the social movement, and key lawmakers.²¹⁷ As Dides notes, "This initiative not only restores these rights; it allows for the active involvement of civil society in a legislative issue of crucial importance to both women and men. Most organizations and institutions supporting the project were consulted and had a say in it. This bill is part of a review and rethinking of our strategies, since sexual and reproductive rights reflect a conflict at the convergence of imaginary and cultural determinations and political and social resistance. Society remains unwilling to talk about daily realities involving the emotions, desires and sexuality of men and women of all ages."²¹⁸

5. Comments and Conclusions

We live in a political and social climate where so-called value issues, particularly as pertains to sexual and reproductive rights, emerge ever more forcefully, forcing civil society to be ever more effective in articulating, promoting and monitoring legislation and policies capable of bridging the obvious gaps facing sexual and reproductive rights in Chile.

There has been progress on some fronts as the Health Ministry, NGOs, academic institutions, social organizations and individuals have cooperated on key initiatives that have successfully weathered the opposition of the Catholic Church. One such initiative is *Cross-integration of Gender in Health Reform Policy*, a document produced by the Health Ministry's Advisory Commission on Gender and whose stated goals include passage of the Framework Sexual and Reproductive Rights Bill and patient confidentiality as regards abortion treatment.

To a greater or lesser extent, policy proposals in the past decade have focused on the women-as-mothers image originating in the religious domain rather than on sexed, non-reproductive women.

Obstacles remain despite the progress made by the various ministerial programs. Cultural change is a slow, contradictory process that often faces strong resistance. The many gaps and shortcomings that exist must be dealt with by strong, inclusive alliances. This is the only effective way to deal with the religious minorities that consistently impede progress on sexuality and reproduction.

A cross-cutting approach is key to assessing the agreements, complementarities and contradictions

²¹⁶ Supported by the Sexual and Reproductive Health and Rights Forum, APROFA, Centro de Apoyo y Desarrollo de Organización Comunitaria; Centro de Investigaciones en Bioética y Salud Pública.

²¹⁷ Including Deputies Fanny Pollarolo and María Antonieta Saa and Senator Carlos Ominami.

²¹⁸ Dides, C. Sexual and Reproductive Rights Bill. In *Cuerpo y sexualidad. Vivo Positivo*, FLACSO, Arcis University. Eds. F. Vidal, C. Donoso. Santiago, 2002.

of the stakeholders involved and whether they can work together on initiatives and campaigns and, most of all, on ensuring the political will to carry policy through. As Zorrilla and Dides note,²¹⁹ “Conviction and consensus about the legitimacy of policies addressing outstanding issues seems lacking. How else to understand the passive acceptance of obstructionist tactics and veritable sabotage such as the media conduct over HIV/AIDS prevention campaigns and the uproar, often completely unjustified, over the JOCAS initiative.”

For the State to be in a better position to fend off conservative attacks on sexuality and reproduction, societal consensus needs to be more solid and encompassing than the mere proclamation of common tasks. Only then will a truly democratic debate involving all stakeholders be possible.

²¹⁹ Zorrilla, Sergio; Dides, Claudia. Sistematización de los marcos teóricos y fundamentos en la acción pública vinculada a la prevención del embarazo adolescente y al apoyo del desarrollo integral de la adolescencia con especial énfasis en la dimensión afectivo-sexual [Systematization of the Theoretical Framework and Foundations of Public Initiatives on Teenage Pregnancy Prevention and Comprehensive Adolescent Development, with Emphasis on Sexual and Emotional Issues]. SERNAM Advisory Report (unpublished). December, 1999.

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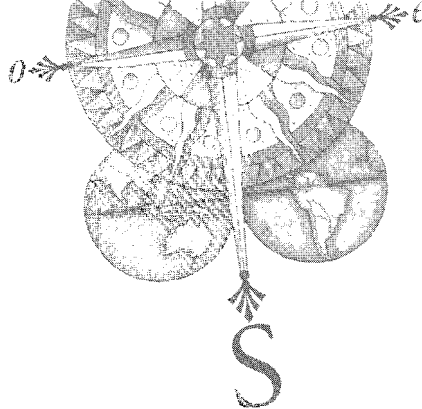
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FROM DOMESTIC SOCIETY TO CIVIL SOCIETY: SEXUAL AND REPRODUCTIVE RIGHTS IN PERU

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Introduction

The unflagging Roman Catholic battle against sexual and reproductive rights through both international forums and national dioceses is well known yet insufficiently understood. At first glance, it seems disconcerting that a critical view of Third World foreign debt can go hand in hand with support for such criminal conducts as decrying condom use for AIDS prevention or furthering homophobia, not to speak of the bar on women holding ranking Church positions. We take the view that civil society simply does not exist from the Vatican's conceptual vantage point, whose central category is instead domestic society.

Part I: Does the Global Village Need a Global Parish?

Latin America is often defined as the region with the world's widest income distribution gap and the

most staunchly Catholic, two equally enduring attributes at the heart of an ongoing debate in regional academic circles. A consequence of these circumstances is strong reluctance by Latin American career politicians to undertake a secular review of Vatican policy in their countries.

Such reluctance is often explained on grounds that such polemics could hurt at the polls or result in political isolation. Indeed, Latin American societies, and particularly those who have made a career out of politics, are secular and modern on matters of national development yet acquiescent to the guiding role of the Roman Catholic Church, and specifically of the Vatican, in both moral and political matters.

A problem in dealing with the connections between faith, gender, reproductive health and sexual rights in Latin America is the interchangeable use of the terms *Catholic Church* and *Vatican*. For reasons

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having to do with the significant change Catholicism has undergone through the past quarter century, we believe it more appropriate to refer to the latter. The most significant is the Vatican's active political role, which has led to the administrative and doctrinal centralization of Catholicism. To say it more clearly, Roman Catholicism is ruled by orthodoxy. Over the past 25 years, obedience, both political and religious, has become its defining feature. A complex and thorough process of re-centralization of power restored authority to bishops and cardinals, to the detriment of parish priests and Christian base communities.

As a result, the Church has made a noticeable retreat from modern civil society. But as opposed to fundamentalist outbreaks of a century ago, this time it is not merely a matter of a conservative culture winning the upper hand. Quite probably this is no longer possible -the influence of Catholicism on the hegemonic centers of modern culture waned in the 20th century and everything indicates the trend will continue. That being the case, the apparent chosen option was to leave the field of modern culture and focus strictly on political influence.

The emphasis on papal leadership has increased believer detachment from the Scriptures *and local interpretations* and made loyalty to Rome the overarching tenet. The result is a new imperviousness to change in contemporary society and unquestioning acquiescence to the Pope's audiovisual prominence. This approach is not interested in the least in engaging in dialogue with a rapidly-changing world.

A hegemonic voice in modern culture no longer possible, the Vatican chose instead to wield its political clout to the fullest wherever conditions allowed. Yet, save for Ireland and Poland, scenarios for such displays are increasingly scarce in Europe. It is in Latin America, and to a lesser extent in Africa, where the new plan took on special force.

This helps explain the strategic significance of condemning Liberation Theology for consolidation

of the newly centralized Roman power. Apparently, at stake were not theological differences but proximity to the people and the spread of a current that threatened authority -especially the entrenched political privilege on which Catholicism in the continent was supported.

The flight into Rome marks a shift from the strategy of scattering to the four winds -the classic optimism of hegemonic Christendom- to that of the white dwarf with a small size but a high ability to affect the motion of surrounding bodies. Certain features in this process are worth noting: (a) The form of government; i.e., the Vatican as spiritual empire; (b) The exclusion of women; and (c) As a corollary, the formulation of an image of society and the world that we characterize as a "domestic society".

The Vatican Court and TV as God

A most distinctive feature of the second half of the 20th century were the strides made by democratic forms of government and the attendant new legitimacy of a political culture. This was no linear process, to be sure, but great upheavals and commotions notwithstanding, consolidation of parliamentary forms of government, even in the presence of monarchies or constitutional empires, proceeded apace. In some cases it was a product of political maturity, in others - as was often the case in Latin America - it was hampered by rather weak bonds with social forces.

The participatory character of audiovisual media audiences went hand in hand with affirmation of participatory democratic culture. The Second Vatican Council endeavored to build some of these changes into Catholic institutions. In retrospect, Vatican II was an effort to show that no significant contradiction existed between being Catholic and being a citizen. This implicitly recognized the natural autonomy of national religious bodies, and naturally, the secularization of customs. In the '60s and early '70s it seemed that the Vatican was finally trying to make its peace with the modern, secular world it had systematically fought since the French Revolution; not to mention Galileo. A moderately conservative though not belligerent tone seemed

to be, finally, the way to go into the contemporary world. It is a known fact that theologians who attended Vatican II posited that there was no moral objection to contraceptive use.

Politically speaking, if what the Vatican sought was fuller participation in the changes of the time, it would have inevitably ended up accepting some form of institutional *republicanism*. Naturally, an immediate consequence would have been renunciation of its deeply-rooted culture of secrecy in favor of transparency -financial, political, even moral. It would also unavoidably imply acknowledging the ability of women to hold positions of authority within the Catholic structure.

It would appear that the death of John Paul I and subsequent election of John Paul II brought this process to an abrupt end. The first consequence was the resort to the leader's charisma to quell and stifle institutional discussion in modern parliamentary fashion. Instead of resembling a modern republic where debate, reasoned consensus, and reasonable discrepancy are legitimate, the Vatican returned to its courtesan roots, making it necessary to shape doctrine into an unappealable viewpoint. Throughout this process, the supposed foundation of religion -the Scriptures- were not subject to further discussion or reinterpretation. For 25 years there has been no new version of the Bible, no new directions as to how to read it and no significant changes in the liturgy, showing that what was at stake was institutional organization rather than theological issues. Instead, a new catechism is used as a tool in regulating behavior.

This was not the only conservative change taking place at the time. John Paul II was elected at a time when neoliberal conservatism was riding tall after the election of Margaret Thatcher in the UK and Ronald Reagan in the US. The consequences for the Catholic Church, especially in Latin America, would be significant.

Militant Catholic hostility to sexual and reproductive rights should be viewed in light of a post-Cold War

institutional framework. Such attitudes hark back to a centuries-old tradition of understanding the control of sexuality as a domestic rather than a private matter, whereby power was politically exercised in monarchic fashion upon legitimate descendants. This helps understand how domestic behavior could simultaneously have more or less direct public significance. Where kinship and power are indissolubly linked, control of sexuality is evidently a political issue.

Despite this background, current efforts to reaffirm Catholicism through institutional inflexibility on matters of sexuality range over a wide field, from a ban on premarital sex to fighting WHO guidelines on condom use for HIV/AIDS prevention. Another facet of the same stance is opposing same-sex unions while covering up for pedophiles in Church ranks. True, in the Catholic tradition, sexual sin in the exercise of political power has been the quintessential sin. Should this be viewed merely as the dead weight of tradition? In our view, certain elements of the contemporary historical context force us to qualify this. First, these are no longer merely questionable standards, but rather a determined effort to swim against the tide of changing customs and mores, especially in modern urban society. The Catholic Church position on sexual and reproductive rights has grown increasingly apart from the common sense prevailing in traditionally Catholic societies. What is then the purpose of stances not only conservative, but also utterly unrealistic? The answer is that they are political muscle-flexing in negotiating new forms of political recognition in a post-Cold War world. That is why the Church is subsumed in its Vatican state form with a cultural belligerency unprecedented in the 20th century. Far from adopting parliamentary forms of government and transparency of information or recognizing the cultural value of freedom of thought, it has chosen to reproduce many of the features of courtesan society. Power is concentrated in Rome, where the political clout of cardinals and bishops has earned them unparalleled weight, and consequently discourse

-from media statements to encyclicals- has taken on a tone of unappealable pronouncement.

What are the political consequences? We believe that this is about installing political action groups within modern states, not merely exerting influence or aspiring to persuade. At stake is dictating state policy on health and criminal issues, not the conscience of believers or public opinion. It seems that after the Cold War was settled, the target is now the secular state. More important than the continuity of certain cultural traditions are the political developments behind Vatican action.

Indeed, the dynamics of cultural change in modern urban society confer special importance on moral reasoning based on individual legitimacy and responsibility, and in dealing with problematic situations, resort is made to authenticity as a normative guarantee. Faced with a moral dimension where individual discernment and the ability to respond to the vital context are the key issues, the Catholic Church position on sexuality does not even aspire to appearing reasonable. The most outrageous position of all -opposition to condom use for AIDS prevention- should come as no surprise if we understand that Church power and bargaining capacity are strengthened by showing imperviousness to emerging needs in the field of sexuality. As will be discussed below, the target is not sexuality per se but securing a substantial share of political power. The basic assumption of Roman Catholicism is that *a centralizing state body is indispensable to religious preservation*, making allegiance to the Vatican an article of faith. A rather surprising development in a world where, as a counterpart to globalization, local bodies are acquiring greater significance and import. Where the predominant tension or complementarity -as the case may be- is between the local and global dimensions, the Vatican opts for a significant alternative: decision-making is

closed or hidden while the figure of the leader is open and visible. In our view, this arrangement of elements -closed and open- helps understand the complementarity between positions at first glance contradictory, such as inflexibility in sexual matters coupled with concern for economic survival as when questioning the foreign debt load of poor countries. Both dimensions are generally honored in the public scene.²²⁰

To a certain extent, this combination of the hidden and the open is what produces a special *charismatization* of papal power: everybody can see the Pope but only the chosen few can communicate with him. Keeping quantitative differences in mind, he is like Fidel Castro: all Cubans can -or must- watch him, yet only a few can speak to him. Needless to say, in such circumstances anything resembling public opinion -a key feature of modern culture- simply does not exist. This is institutionally impeded by papal infallibility, which renders public discussion prior to a statement of doctrine a pointless exercise. It could be argued that theologians debate passionately among themselves; yet such discussions are valid only as specialized discussion and do not represent public debate

Herein lies the crux of Vatican attitudes and practices: a doctrine built on courtesan, absolutist practices which tries to be palatable to a civic culture becoming increasingly accustomed to discussion, negotiation and legitimate dissent. This tension is conspicuous, insurmountable, and certainly the distinctive seal of the authority exercised by contemporary Catholicism.

A Perfect Society, But Women Need Not Apply

At a time noted for the massive integration of women into a wide variety of public activities, the Vatican stands out as the only Western state to

²²⁰ The attitude of Bono, lead singer for the Irish group U2, was rather interesting. While in 2000 he joined with the Vatican in asking for a foreign debt moratorium, in 2003 he announced that he would donate the proceeds from a recent album to an Irish foundation working with minors sexually abused by Catholic priests. This illustrates that Catholics can agree on issues such as the foreign debt while sharply disapproving on sexuality. Bono's gutsy yet sadly isolated gesture exposed the connivance of those who would say Vatican policies are progressive based only on its position on the foreign debt issue.

deny women the vote. This is no doubt due to the secretive nature of courtesan society, which prefers to reinforce and increase in the present world the density of a prior state of affairs. But what is clearly the central issue is hierarchical sexual difference as a defining feature. Absent a reasonable explanation for denying women religious authority, we could ask about its consequences. The first is apparently trivial: the Vatican, once considered by theologians as 'the perfect society', is increasingly out of touch with other states. It may share some ground with the likes of Iran or Saudi Arabia, but, generally speaking, Vatican misogyny has ceased to be a doctrinal affair or peculiarity and has become a key indicator as to how to construe Roman Catholic directives on sexuality: the model of sexuality is exclusively male -and not just because of the old cliché that said that only reproductive sex is legitimate. Males can procreate since puberty, a model which does not apply to women, whose procreating ability ends at menopause. In this confrontation women are excluded without excuse, as a growing portion of theological debates are led by women with the same intellectual training as males, except they cannot be ordained. In other words, this is no longer mere conservatism. The Vatican has adopted a retrograde position that swims against the tide of the day, fully aware that its viewpoint is untenable.

Once again, it seems that persuasion is not the goal. The real goal is a show of force that sets in motion a typically hierarchical movement, as exclusion has its counterpart in renewed worship of the Virgin Mary. What is excluded is praised. In principle, this exclusionary stand might be considered simply obsolete. This was the initial interpretation -as the Pope came from an Eastern European society noted for a certain cultural isolation, a dated stance was understandable. However, the exclusion of women from the Vatican has been a lot more functional to the design of current policy. First, keeping it a closed, exclusively male organization turns being born male or female into the decisive factor that determines lifetime chances for employment and occupation. Yet what

is most characteristic about the 20th century is assertion of the growing importance that *individual merit is more relevant than background*. This is key to understanding inflexibility on the issue of sexuality and in institutional decision-making.

The air of immutability that purportedly surrounds Vatican statements owes less to some ingrained notion of eternity than to the predominance of background over merit. Yet the basic assertion of feminist groups and other leading sources of renewal across all cultures is recognition of the value of merit in people, especially women, who have been kept in social subordination precisely for reasons of background. It only takes a cursory look at sexual and reproductive rights to see that they meant to legally ensure people's ability to build a life based on merit. Seen this way, Vatican opposition as a matter of principle to such an idea comes as no surprise at all.

The legitimate and pertinent question that arises is how this stand erodes Vatican ability to influence the everyday lives of people. We have discussed current attempts to turn unconditional loyalty to the Vatican into the essence of Roman Catholicism, as well as its ability to influence state policy and reinforce restrictive sexual and reproductive legislation in strongly Catholic countries.

The link between State policies and the impoverishment of women should be stressed. Poverty, and exclusion in general, can make human beings believe that existence is exclusively a matter of destiny.

Significantly, traditionally Catholic countries such as Italy and Spain have the lowest fertility rates in Europe. This is conclusive proof of contraceptive use among women, thanks to societal standards providing ample autonomy for individual choice. The situation is quite different in societies where poverty is a part of daily life and restrictive legislation on the subject of sexuality is mainly under the control of the Catholic lobby, hurting primarily poor women. Poverty strikes in fuller force when the law tends to set the limits of the possible. A real paradox for societies where law

enforcement is generally lax. Indeed, legal restrictions on sexual and reproductive rights are meticulously enforced at public health facilities, yet the opposite is true at private establishments. Since whether you use a public or private facility has mostly to do with ability to pay, it is quite evident that legal restrictions on sexual and reproductive rights arising from Catholic pressure affect mostly poor women.

The same is true in areas such as compulsory Catholic instruction in public schools, whose services are usually more precarious than those at private institutions.

A Domestic Society Ideal

We hold that a closed, courtesan society which excludes women and stubbornly opposes sexual and reproductive rights is a societal model far removed from modern civil society. Hegel wrote that civil society emerged when the order based on the family and the State changed and started to revolve around individuality and the differentiation of interests. In European history this transition coincided with the beginning of the end of Roman Catholic hegemony as it reeled from the Reformation of the 16th century.

A domestic society has no desires or interests. Everything happens within an ideally hierarchical place where the nuclear family ideal becomes essential for socialization and as a model of authority for societal life as a whole. Authority lies in the father while the mother is a selfless source of nourishment. Paternal authority is inevitable and above all irreversible; within their homes, children have no authority. A key aspect of the domestic model is that authority flows naturally from the parental role and is not subject to consensus or open to discussion. As with any home, guaranteeing the sustenance of this idyllic hierarchy naturally requires financial resources. Demands about the foreign debt and improved negotiating conditions between rich and poor countries revolve around this model. True, these demands do not aspire to the same level of efficiency as those regulating sexuality and have

certainly not translated into concrete gestures. When Argentina legalized same-sex unions, the Vatican called on all Catholic politicians worldwide to oppose similar measures elsewhere. Yet a similarly fervent call on all Catholic Ministers of Economy to oppose detrimental IMF measures seems all but improbable.

In other words, while pronouncements on sexuality, particularly on marriage, divorce, contraception and health expressly aspire to becoming policy guidelines, references to economic or social well-being are mere opinion. This is undoubtedly the result of life in a unipolar world where, for the first time since the Middle Ages, the leading power is only marginally Catholic. Indeed, the European Community is now debating whether its new Constitution should recognize Europe's Christian past -a remarkable development given the undisputed power of the Catholic Church at other times in European history.

The attempt to preserve archaic institutional structures becomes even more striking precisely because the world has changed so much since the papacy ruled. In our view, wherever possible, the domestic society model aims to weaken the modern secular state. While certain overly extreme, intransigent stands may seem to point to bare fundamentalism, a difference should be made between a fundamentalist view consisting of unconditional submission to papal authority, and acts designed to remain influential in these states -usually, but by no means solely, in health and education issues.

Domestic society is the prism through which the Vatican observes and behaves in the contemporary world. Ecumenical pluralism, openness to reasonable debate with public opinion or adoption of parliamentary styles of government with women's participation have been simply cast aside because they are not relevant to what Rome understands as reality.

To be sure, the Catholic Church is more complex than the high-profile hierarchical and institutional

changes of recent decades. A myriad nuances are to be found among theologians, priests and believers as to the processes described above, up to and including complete disagreement with Rome -notably Catholics for a Free Choice, an organization now active in several Latin American countries (though not in Peru). The *Romanization* of Catholicism has been extremely efficient at suppressing dissent, whether through explicit sanction -such as removal of teaching privileges for overly critical voices, notably German theologian Hans Küng- or through acceptance of self-censorship -beneficial to the powerful in the short run but corrosive in the long term as it gets people into the habit of withholding what they believe, and worse, of asserting that in which they do not honestly believe.

Part II: The Peruvian Catholic Church and Its Oversight Prerogatives

Relations between the Peruvian State and Catholic Church are much like those prevalent elsewhere in the continent. Peruvian Constitutions have always granted Catholicism special status, from recognizing it as the only official faith to ensuring preferred support. Declaration of Peru as a secular state in the 1993 constitutional reforms remains a bone of contention.

Why be wary of reaffirming the secular nature of a society whose customs and mores have moved largely away from Catholic authority? Career politicians are, but their religious zeal is clearly out of step with societal trends. First, other religions, especially evangelical protestant churches, are fast gaining on the Catholic Church. Second, in terms of actual observance, most Peruvian Catholics are best defined as lapsed.

The answer lies elsewhere. The Catholic Church is afforded special treatment because of the “governance factor”, an ingrained conviction that deems both the Catholic Church and the Armed Forces essential to social order. In Peru, the sense of citizenship is so precarious that the sole idea

of a social order based on simple citizen support seems impossible.

In other words, resistance to officially declaring Peru a secular State is not to be found in religious loyalties but in the way Peruvian politics operate. The explanation is a peculiarly warped form of relation between State and citizenry I call a *trusteeship order*.

This is a political bond based on the idea of trusteeship, a domestic legal concept holding that citizens are incapable of standing for their own interest and must therefore be protected by watchdog institutions. Quintessential guardian institutions include, albeit not exclusively, the Catholic Church and the Armed Forces. The trusteeship order is a form of acting and understanding political relations that permeates power relations in general. Since the practice takes place in the field of representation, political relations generally tend to remain under its shadow.

In such a context, social reality and public order as such are most appropriately represented through military and church ceremonies. In actual fact the influence of the Armed Forces and the Catholic Church is no news to anyone and is openly recognized by commentators, scholars and political players. But in our view, such recognition has seldom gone beyond confirming a state of affairs or tried find a more comprehensive explanation.

Guardianship breeds the belief that citizens are incapable of representing themselves and -as we wish to expose- legitimizes privilege. Indeed, the trusteeship order provides a basic explanation about privilege, their ostentatious display and their relative legitimacy. While ostentation is a characteristic of the rich, its roots go back to the trusteeship order. Our hypothesis is that guardian institutions also are, by definition, the domain of privilege. In the military, for example, political privilege has the force of evidence, as officer training still considers the presidency the culmination of a successful military

career. In private and especially public schools, children are taught from an early age that the highest expressions of order are military-style formations, parades and salutes to the flag. An element not unconnected to clerical influence and clearly present here is the cult of subordination. In general, relations between military institutions and the State -for example, when drafting the national budget- are noted for a mix of privilege and secrecy.

Church-State relations must also be understood in the context of guardianship. As with the military, these services earn privileges albeit of a different nature. In the 19th century the Catholic Church lost the *haciendas*, a key stronghold of its power. Then it lost the administration of cemeteries and registration of births, marriages and deaths -a crucial function for ascertaining inheritance rights, far from a negligible issue in a society where anyone who could chose to live off income rather than work. Yet the strides made by the secular state did not disturb the trusteeship order, a culture that went far beyond immediate clerical interests.

However, the Catholic presence in education remained unaltered as the Church continued to run schools and teacher training programs and ensured mandatory religious training in schools.

Perhaps the most important and enduring element, both in Peru and throughout Latin America, is the stifling or suppression of free speech. Indeed, a striking aspect of the continent's history is that most of the nation-states emerging after independence from Spain embraced Western modernization ideals. Architecture, urban design, railroads, fashion - everything was adapted from the Western world. Yet

strictly speaking, rather than adaptation there was selective imitation based on the interests of local elites. Anything remotely connected to equality was ignored as a threat to the ruling classes. Chief among these was freedom of conscience, which Peru recognized as a constitutional right only in the 20th century. This comes as no surprise if we consider that Article 4 in the Constitution of 1860, the longest-standing in Peru's history (in effect through 1920, save for a brief interval) stated as follows: "*Peru is a Roman Catholic country. As keeper of the faith, the State shall not allow the public exercise of any other religion.*"

In fact, the ban on all other faiths dates back to at least 1828.²²¹ This means that in Peru, an essential prerogative of any pluralist system -the affirmation of genuine diversity of religious beliefs- was formally excluded since the very beginnings of independent life. Although no formal censorship equivalent to the Inquisition existed, a society that sets limits on beliefs clearly inhibits all sense of scientific experimentation and intellectual curiosity. When defining a written religion as State-protected, the control of ideas and opinions becomes a fact of public life. Let us recall that until the mid-'20s only a quarter of Peruvians were literate, which suggests a link between State protection of Catholicism and the sluggish pace, to say the least, of literacy efforts. Literacy opens up a world of new ideas and opinions; reading and writing help build individuality.

Another essential aspect of Church-State relations was the Patronage agreement whereby bishops were appointed by the Vatican from a list of candidates proposed by the government -thus ensuring good relations between religious and government officials.²²² Its monopoly on religion

²²¹ Law 2193 of 1915 allowed other faiths to worship in public. In Samuel Abad Yupanqui: *Libertad religiosa y Estado democrático: A propósito del debate constitucional* [Religious Freedom and Democratic State: Constitutional Debate]. In: (Several authors) *Estado Laico: A la sombra de la iglesia* [Secular State: In the Shadow of the Church]. Lima: Ed. Centro de la Mujer Peruana Flora Tristán, 2002, p. 64.

²²² The words of Montevideo bishop Ricardo Isasa in 1911, as Uruguay debated separation of Church and State, illustrate a line of reasoning common throughout the continent: 'The State needs the Church to produce obedient subjects; the Church needs the State to guarantee peaceful exercise of its faith and mission.' In: Gerardo Caetano and Roger Geymonat. *La secularización uruguaya. Tomo 1, Catolicismo y privatización de lo religioso* [Uruguayan Secularization. Volume 1, Catholicism and the Privatization of Religion]. Uruguay: Ed. Taurus, 1997, p. 103.

and the semi-official nature of Church officials, who in actual practice operated as if part of the State, help explain why literacy was far from a priority for the State. The significance of this is that individuation processes were inhibited and subject to a regime where servitude and public ceremonials passed for the entire meaning of societal life. The domestic world was organized and imagined as per the *hacienda* model. This situation of servitude and subordination to a written religion yet on the basis of ritual rather than reading had profound consequences for public culture. This order subordinated the legal system to a culture of pomp and circumstance where shame, rather than responsibility, was the main moral sustenance of rules.

The weight of shame in society is easily recognizable in the form of “what will they say”. As expected, the deepest shame and target of social sanction often lies in sexuality. But this is not about the shame or regulation of single individuals who privately act to control their impulses. What matters are regulations capable of defining hierarchies in the public domain, whether or not they regulate the foundational domestic realm. In a society such as this, asserting that the family unit is a core or foundation simply makes no sense, because the equivalent of the domestic is regulated by public hierarchies.

It is precisely for this reason that the trusteeship order is built on institutions such as the Catholic Church and the Army, the authority figures by definition. If the father is represented in the public domain, his presence in the home does not necessarily have to differ from one household to another. The incarnation of order is then a domestic order that exists outside the home. The issue is not the defense of a moral order based on individual behavior marked by a sense of responsibility. What is decisive belongs in the field of corporate participation and class recognition. Salvation, in other words, does not lie in the private soul but in external respect for hierarchical differences. It would be a mistake, however, to infer that the feelings set in motion are mere deceit,

duplicity or the like. The effectiveness and consistency of those feelings are hard to question since the order was not oppressive and exclusive, but rather, it provided a socially shared vocabulary for recognizing and shaping public identity. It is difficult to imagine things being otherwise as the *hacienda* continued to be the model for social harmony and literacy barely existed in some cities and not at all in rural areas.

Secular Emancipation: The Pioneers

In the transition from the 19th to the 20th century, urban-based movements began to criticize this state of affairs. Chief among these were anarchist and anarcho-syndicalist organizations, and above all, the vigorous social and anticlerical critique of women such as Clorinda Matto and Mercedes Cabello, and in the ‘20s and ‘30s, the untiring work of Puno educator José Antonio Encinas. In fact, the first third of the 20th century brought about many changes in the way the Catholic Church related to State and society. In that period other faiths were allowed to worship in public and a divorce law was enacted, repealed, then re-enacted. The social movement grew noticeably, notably through labor unions led by openly anticlerical anarcho-syndicalist organizations which succeeding in obtaining passage of the Strike Act of 1913 and in 1919 contributed to establishing the eight-hour working day. In addition, a process of university reform liberalized and modernized the former Universidad Mayor de Lima, now the University of San Marcos, to which the Church responded by establishing a Catholic University later granted a pontifical charter.

Not less important was the emergence in cities, especially Lima, of groups concerned about the plight of the native population that regularly spoke out against the victimization of *hacienda* laborers and communities. Frequently found condoning these abuses, along with Sub-Prefects, were local priests.

As noted, the administration of cemeteries and registration of marriages and births (hitherto

registration of baptisms) passed from the Church to the State. In Lima, industrial expansion, the emergence of an incipient class of office workers and professionals and creation of the first jobs for women in offices and public schools slowly began to transform an urban landscape that used to be all but static.

Yet the baptism of fire, the event which left an indelible imprint in the country's political memory, came in 1923 following dictator Augusto B. Leguía's vow to 'consecrate the country to the sacred heart of Jesus'. The announcement, a blatant attempt to legitimize a dictatorial regime, was met by massive worker and student protests led by young political leader Víctor Raúl Haya de la Torre. The episode marked the birth of the American Popular Revolutionary Alliance (APRA) party and the start of a long history of persecution and conspiracies. The elites recalled the incident for years as an example of APRA's evil nature. As the APRA became noticeably moderate in subsequent decades, it stopped mentioning the incident and nowadays keeps it in discreet oblivion. Yet, it is worthy of note that opposition to clericalism and support for a secular State were clearly at the root of Peru's longest standing mass party. This is all the more remarkable because the elites and the Church later fought APRA by all means possible, notably through processions and Eucharistic Congresses which issued fiery condemnations of both APRA and communism.

Another important fact in this episode is that, unlike the previous generation of anarcho-syndicalist organizations, the APRA emerged as the political opposition to a scheme to have a religion validate a dictatorship and did not advance a *philosophical* critique of religion.

It should be noted that Emilio Lisson, bishop of Lima at the time, attained special prominence in 2003 after the Vatican announced commencement of beatification proceedings. This fact seems to

further support the view that the Vatican's political objective is to revert the secular nature of states wherever politically possible. And as the region where its greatest political capital lies, Latin America is of particular interest to the Vatican.

Public culture suffered a regression of sorts after the conservative outcome of the political crisis of 1930, in which massive protest led to dictator Leguía's overthrow in a military coup. The most significant protest event of this time was an APRA-led insurrection in the northern coastal town of Trujillo, put down after the wholesale execution of rebels. Subsequently the Army and the Catholic Church became steadfast backers of a policy of persecution against both APRA supporters and communists that remained a constant political practice practically through the '60s.²²³

From Sexual to Social Catholicism

After WWII there was significant change along the lines proposed by Italy's Christian Democrat party -not as much in terms of the composition and style of action of bishops as in ways of fostering lay political thought. The movement was led by a cultural elite of middle-class professionals noted for both political ambition and an interest in so-called "social Catholicism". The term referred to the call made by 19th-century Pope Leo XIII to get involved in 'social matters' in order to counter the growth of socialist and anarchist movements. As with the mostly Trujillo-based APRA in the '20s, again a new political grouping with modernizing tendencies first gained strength outside the nation's capital. This group was active against dictator Odría and played a crucial role in the Arequipa uprising which led to his downfall.

This grouping eventually became the Christian Democrat Party, which while never attaining the stature of counterparts in Chile and Venezuela, did introduce an additional dimension to subordination based on monopoly control of

²²³ APRA was legalized in the '50s after political negotiations. Continuation of its legal status was made dependant on political alliances, leading to the defection of several founding members.

sexual standards. The emphasis is on 'additional', since in no case did the Party's social perspective question, not even timidly, the 'domestic-sexual' dimension of Catholic Church discourse and influence. Instead, there was a rhetorical division between sexual and social Catholicism. It was a clever move, as customary oversight, with its well-known emphasis on domestic and sexual issues, was ultimately controlled by the Patronage system which allowed State involvement in the appointment of Catholic authorities. Social discourse provided greater institutional autonomy and the ability to oversee society without need for government approval or initiative. The transformation was in any event inevitable, given growing urban modernization, the expansion of radio broadcasts and improved public education, which nevertheless never became completely secular in nature.

Yet the Christian Democrats never grew beyond being a minority party. In the '60s a populist, conservative wing broke away and set up the Popular Christian Party, a grouping with no major doctrinal concerns which took with it a majority of the original Party ideologues. Interestingly, the split coincided with Vatican II. Social Catholicism then entered a period of intense activity, culminating in the late '60s with formulation of Liberation Theology in the northern fishing port of Chimbote -again outside of Lima. Subsequently there was a renewed, often highly critical emphasis on public rather than domestic issues.

In the '70s, in contrast with the rest of Latin America, Peru had the peculiar experience of being ruled by military government headed by nationalists and modernizers who led a fierce attack on the prevailing bonds of servitude. As with social Catholicism, this development did not transform the watchdog nature of military institutions but at least it rearranged the way power

was exercised in Peruvian society. While relations with the United States became visibly strained in those years, in general the country's atmosphere exuded progressive optimism over the challenge of the servitude regime, still strong in the impoverished Andean provinces. Catholic bishops even showed sympathy for the social change taking place, perhaps as a consequence of the uncertainty created by the political and cultural *aggiornamento* decreed by Vatican II.

In the '60s several institutions active in family planning set up shop in Peru. Although contraceptive promotion was discreet and tended to be identified with U.S. population control policy, most urban women began to use the pill.²²⁴

The party system in effect at the time of the reform-minded coup of 1968 went into a relative recess until 1980, when presidential elections were held and Fernando Belaúnde, the president previously overthrown by the coup, was re-elected.

The New Social Scenario of the '80s: Civil Society

By and large, the basics of political participation have changed little since 1980. Right and left, most political institutions intuitively recognized that they faced a crucial dilemma: how to bring about a valid political culture and discourse in a country that had undergone such a key social change as extinction of the most extreme forms of servitude. While we will not refer in detail to what happens when a modern society abolishes servitude without an explicit democratic alternative, we will note certain things that did happen, such as dispersion of interests as individuals earned new livings and money acquired greater moral, emotional and political value in their lives. These changes were reflected in the often chaotic proliferation of economic activities in poor areas. The relatively stable population of workers organized in disciplined trade unions, the small group

²²⁴ The magnitude of changes in customs and mores and the attendant redefinition of domestic space is evident in contraceptive use, now common in women from all backgrounds and parts of the country. Secularization is undoubtedly a factor, as is the growing presence of Evangelical churches that generally do not object to the practice. For reasons that will become clear further on, the work of these churches in poor urban and rural areas has brought about a subtle but constant transformation in the public culture of trusteeship.

of service providers and the vast rural masses were replaced by a mostly urban population busily engaged in what is often -though inaptly- referred to as the informal economy. An additional decisive factor was a change in the normative nature of social rules regulating the exercise of power. Everything suggests that hierarchical consensus, or first-generation guardianship, was rendered obsolete. This could help explain the ease with which such a murderous group as Shining Path did in a relatively short time succeed in gaining a commanding presence in public life. The bounds of social order had finally been demarcated more in terms of attack and defense than acceptance and opposition.

The tendency to see societal life -i.e., social control, the fluid, comprehensive coordination of members of a society- in terms of a confrontation was foreshadowed by a development that went largely unnoticed at the time. Indeed, in the late '70s, when Peruvians frequently marched for an end to the military regime, protesters were often charged with "attacking the Armed Forces" -presumably because any expression of discontent constituted such an attack. It seems rather out of proportion to refer this way to demonstrations that did not involve, not even remotely, the use of firearms. Yet any expression of civil disobedience turned a Peruvian citizen into such an attacker.

This could well have remained an inconsequential footnote if not for the fact that in subsequent years the phrase acquired literal meaning as attacks against the Armed Forces ceased being a figment of the imagination and became an everyday reality, generating an attendant atmosphere of widespread fear.

A frequent mistake of students of Peruvian society and its recent past is to unilaterize the two dimensions discussed above: the emergence of a society increasingly concerned with individual issues (a civil society, strictly speaking), and the normative weakness of first-generation guardianship to deal with the challenge of armed violence and terror in an unprecedented scale and to advance a post-servitude social order. In actual

fact, both dimensions are required to both make a general analysis and understand the progress made by civil society in the sphere of sexual and reproductive rights.

To account for changes taking place in the past two decades, we hold that there emerged a civil society guided by interests and massive individuation to an unprecedented degree; a civil society uniquely positioned to further economic modernization and political democratization. Yet instead of using political imagination and inventing a new vocabulary, perhaps along the lines of participatory democracy or simple emphasis on equality, it fell back on the well-worn language of trusteeship. Yet this time the context was so different that the order increasingly seemed more intended than actual. While it is true that its efficiency lies in the weight of ingrained tradition, it is wrong to consider political trusteeship as a direct expression of servitude. The oversight dimension in these practices is totally transparent, but its roots take hold in representation rather than in servitude. I would therefore tend to affirm that the trusteeship order acquired a new, politically harsher dimension after the demise of the *hacienda* system, where labor and ostentation melded as if a natural distinction carried from birth.

This second-generation political trusteeship of sorts resulted from a mix between the vocabulary of political actors from the '60s -in the best of cases- and a series of social practices that in the '80s had already completed the transition towards a civil society free from domestic attachments and self-representations. In this respect, it is interesting to see that for most small- and micro-enterprises, relatives remain a leading source of labor. While this has been noted as a means to pay low wages and still have a loyal workforce, the opposite process has not been reported as clearly: that families no longer support a typically domestic economy, but instead are crudely geared towards the market, with all the attendant individual fluctuations and interests that this causes. Indeed, this seems to be an organization where the primary references are parents, children and siblings, but

not as clear is the fact that it is superimposed on a more solid base -the world of gains and losses. The business survives not because of the family, but because of the market.

Education is Destiny: The New Sphere of Trusteeship

In addition to this change -which created a scenario whose central features are still in effect- other factors are worth noting: the expanded coverage and simultaneous severe decline in the quality of public education, from primary school to universities. Although nearly the entire school-age population has access to primary education, with statistically insignificant differences between boys and girls, the quality of teaching and social relations within the classroom have deteriorated to a degree acknowledged by all political sectors. The most dramatic of these changes affects public universities. As with schools, the number of public and private universities has increased dramatically over the past 30 years. The most serious issue is the education of a technocratic elite. Private universities, especially those with a clerical background, were favored by the State via low-interest loans and outright write-offs. The reverse can be seen in public universities. As the poor demanded increased access to education, the State turned its back on the very concept of public universities, inducing a process of rapid decline extending beyond dramatically meager salaries and derisory research budgets. Indeed, the worst effect was suppression of the locus of development of truly secular, democratic culture precisely as inclusion in the public scene of a wide range of actors formerly confined to servitude provided conditions for expanding public culture beyond trusteeship. The chance to create a new cultural generation closer to its own history than to doctrinaire conformity was lost. It is as if the crucial social distinction that previously revolved around land ownership had moved to the field of education and public culture.

This change of tack is key to understanding why a secular public culture lags behind a consolidating

civil society. Any observer of contemporary Peru will notice that the chasm between public and private education is such that, in practice, it amounts to educational apartheid. Public education, rather than opportunity, has become the mark of destiny. Private education, which at the university level has a far from negligible clerical presence, seems the only road to the knowledge that makes personal growth possible, or more precisely, that allows us to understand life in terms of merit rather than background.

The paradox of Peruvian society is that the most dynamic, innovative segment of civil society are the poor, involved as they are in myriad businesses and related experiments. This is partially reflected in mass culture but not in the official culture. The distinction is important, because sexual and reproductive rights tend to be more closely associated with health policy and legislation. In Peru, however, the cruel gap between private and public education is the State's perverse way of reinforcing the trusteeship order, in open contradiction with revitalizing currents in civil society. This yearning for representation is expressed in mass culture, in distrust of political parties built on the guardianship mold and in changing religious allegiances, which accounts for the strides made by Christian churches.

Doctrine as a Function of Politics: Vatican Priorities in Peru During the Nineties

The growth of Christian churches in the past two decades has two characteristics worth mentioning. First, a substantially different style of worship which emphasizes a personal reading of the Scriptures and dispenses with baroque rituals. Although their position on abortion remains intractable, it is also true that they are much more reasonable about contraception and providing the information required for enjoyment of sexuality as separate from reproduction. Moral explanations must be validated by conscience; obedience to external figures loses importance. Second, it has gained a strong foothold among the poor and to a lesser extent the middle class, with scant

presence among the elites where the Catholic Church has undisputed hegemony.

Understanding Catholic Church conduct through the past 20 years requires taking account of a key factor: Rome's condemnation of Liberation Theology, which rose to prominence in the 1985 Puebla Conference of Latin American Catholic Bishops and was pronounced all but finished at the Conference of Latin American Catholic Bishops held in Santo Domingo in 1992 as the "new evangelization" cultural offensive was launched. Since Peru stood among countries where Liberation Theology was first asserted and one of its leading proponents was Peruvian priest Gustavo Gutiérrez, Vatican efforts to crush this threat within the local Conference of Bishops were particularly determined. (Ironically, while the attention of the Roman Catholic Church was focused upon itself, Christian churches and religious indifference gained ground.) The strategy was to shift the balance of power in favor of Rome with the religious support of the Opus Dei and the political support of the State. As a result, nowadays the composition of the Conference of Peruvian Bishops is so skewed, it no longer represents the makeup of Peruvian religious organizations. The Opus Dei has a total of eight bishops, including the cardinal. Certainly, the struggle was not only about persecuting liberation theologians -in what is part of an intricate history, it also extended to neutralizing the Jesuits.

No reasonable individual can conclude that the Opus Dei is as predominant in Peruvian Catholicism as to account for that many bishops, among whom special mention should be made of the Bishop of Lima, Cardinal Juan Luis Cipriani, Bishop of Ayacucho during the worst years of political violence there. Cipriani's cavalier attitude toward human rights was legendary -in fact, he once stated that human rights commissions were "ridiculous". Significantly, bishops assigned to the violence-stricken cities of Huancavelica and Abancay in southern Peru were also Opus Dei.

What does this mean? That instead of ministering to the poorest, most vulnerable of Peruvian citizens, the Vatican appointed notoriously indolent bishops whose leading concern was to avoid conflict with the State.

Cipriani's political career went hand-in-hand with President Fujimori's transition to authoritarian rule in the '90s. Unquestionably, the goal all along was to name him Bishop of Lima first, then Cardinal. In 1998, his good relations with the president of the day and his penchant for media exposure put him front and center during the MRTA (Tupac Amaru Revolutionary Movement) hostage crisis at the Japanese embassy. Cipriani was brought from Ayacucho as a mediator; shortly after he was named Bishop of Lima, then became the world's first Opus Dei Cardinal.

How is this connected with sexual and reproductive rights? Health Ministry officials under Fujimori provided regular contraception information to the public, especially the poor, and continued to do so despite repeated Catholic Church admonitions. Toward the end of the Fujimori government, when Cipriani was already Bishop of Lima, a scandal broke out about tubal ligations performed without consent, notably on peasant women, which resulted in several deaths from postoperative complications. The Peruvian church remained strangely quiet about all these issues. Why did the local Church or the Vatican failed to challenge Fujimori on his brazen advocacy of contraceptive use? True, as a minor concession, AIDS prevention drives were very discreet about condom use.²²⁵ But on family planning, health officials always stood their ground when confronted by occasional complaints from bishops.

The answer is probably an exceptional demonstration that doctrinaire inflexibility is at the service of political goals, not the other way around. Cipriani, and the Opus Dei in general, supported Fujimori because their overriding objective was to change the composition of the Conference of

²²⁵ Minor in terms of the doctrinal demands of Catholicism, but criminally irresponsible given the extent of the AIDS epidemic.

Catholic Bishops to suit Rome. While some bishops had been critical of the regime's unlawful conduct, this was possible mostly because at the time the bulk of the oversight role fell to the military rather than the Church.

Save for the tubal ligation (officially called "Voluntary Surgical Contraception") scandal, Fujimori stayed in good terms with the Vatican, as attested by the elevation of Cipriani, the bishop closest to him, to the cardinalate. What was not on the Vatican radar was the impending, abrupt end of the Fujimori administration, one whose chief merit, if any, had been to correctly identify and engage the rising faction -which happened to represent the official Roman line- within the Conference of Catholic Bishops. As they needed each other on other issues, intransigence on sexual and reproductive rights could and did wait.

In an issue that is often skirted, the great Peruvian paradox is that *sexual and reproductive rights were seriously undermined by the transition to democracy*. Why? Fujimori's downfall, prompted by broadcast of a videotape showing intelligence chief Vladimiro Montesinos paying off an opposition congressman to defect to government ranks, showed entrenched corruption of unprecedented magnitude. Faced with overwhelming evidence, several Armed Forces generals wound up in prison or indicted for misappropriation of public funds. The Armed Forces, especially the Army, went into an acute crisis that all but disqualified them for the role of political trustees.

In the course of the next few months, as if responding to a deeply instinctive mechanism of checks and balances, the Catholic Church stepped in to fill the gap left by the Army's moral crisis. Abruptly and without express citizen demand, the democratic caretaker government of Valentín Paniagua appointed the previously low-profile bishop of Callao to head a corruption commission and a progressive but politically inexperienced priest to head a poverty task force. These groups chose to start with the serious violations against

life and individual freedom involved in the enforced tubal ligation scandal, which they used to launch a massive offensive against all contraception. A specially strong argument was that peasant women, specifically those who lived in abject poverty, had no reason to be interested in sexuality, implying that interest in contraceptives had to be the result of imposition or manipulation.

As part of this changing of the guard, the Truth Commission appointed to make a balance of the years of political violence in Peru had a heavy official and unofficial presence of the Catholic Church. Peculiarly enough, when referring to human rights in Ayacucho during Cipriani's tenure, an odd distinction is made between him and the Church, as if his appointment to such a politically sensitive region had had nothing to do with the Vatican.

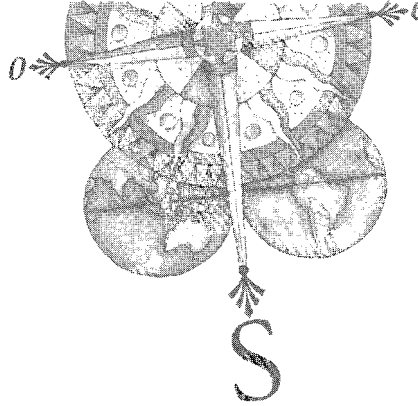
The sexual and reproductive rights situation has taken a substantial turn for the worse under the administration of President Alejandro Toledo. The Ministry of Health is under the control of radical Catholics who do everything in their power to undermine contraception programs, in the process hitting poor women the hardest. They claim that family planning is a throwback to the discredited Fujimori government.

Political parties have said little or nothing against the guardianship order. With a few exceptions, notably the Ombudsman for the Status of Women, feminist organizations and GLBTT (gay, lesbian, bisexual, transvestite and transgender) collectives, most groups simply take for granted that after the military it is now the turn of clerical oversight in social and sexual matters.

As to sexual and reproductive rights legislation, the prevailing attitude is to move within the bounds of what the Catholic Church will allow, as it takes one complaint from the Bishop of Lima for too-daring initiatives to be shelved. Knowledge generated by universities, another potentially important element of pressure, is curtailed by a clear preference -perhaps a political choice- for

private universities. In practice this translates into disinterest in public, secular universities, the last remaining place where sexuality and sexual and reproductive rights can be discussed and researched with a modicum of intellectual freedom.

As Peru faces a nearly complete absence of institutional conditions to undertake sexual and reproductive research and debate, the new Gender Studies Program established at San Marcos University stands as a significant achievement if for no other reason than its rareness. In point of fact, most of the reflections presented have emerged from debate with teachers and students in the program. Yet, the chances of sexual and reproductive rights will improve only to the extent that public opinion joins the debate. We promote nothing new; only that people, especially women and sexual minorities, recognize that their secularized practices can and should help bring about an equally secular public culture and system of laws.



ARGENTINA

Leading Issues, Policies, Laws, Players and Positions

ABORTION

Policy and Legislation

Legal Status: The Criminal Code establishes abortion is a crime against life. Not punishable in case mother's life or health is in danger, and if pregnancy is a result of a rape against an idiot or insane woman. Law establishes prison for the person who performs an abortion and for the woman who self-induces abortion (Criminal Code, Second Book, Title I, Chapter I). 1998 Executive Decree 1406 proclaimed March 25th "Day of the Unborn Child".

Beginnings of Human Life: In 1994, during the Constitutional Reform, former president Carlos Menem (1989-1999) adhered to the Catholic Church's position, trying to incorporate a constitutional clause establishing that human life started at conception. He didn't succeed. President De La Rúa (1999-2001) established that life begins at conception.

Health care (Abortion and other): There is no information of public policies related to the access and quality of post-abortion health care. Little interest towards the issue of patients hospitalized for abortions as a public health concern. The method applied in post-abortion public health care services is the curettage. When a patient arrives with an "abortion in progress", when there is "risk of abortion", they try to avoid abortion and pursue the continuation of pregnancy. There are no more modern technologies in the public or in the social security sector than those used in the clandestine services such as *pneumatic aspiration and manual intrauterine aspiration*.

Legislative Initiatives: Twelve abortion bills submitted to both chambers of Congress since 1983. Two tried to repeal the provision allowing some abortions, five tried to improve its wording, three tried to legalize abortion, one tried to decriminalize it and one sought to entrench protection of the unborn in the Criminal Code. The last bills presented at the Chamber of Deputies came from the Bloque Socialista por la Despenalización del Aborto (Socialist Block for the Decriminalization of Abortion) and Deputy Luis Zamora: Sex education, Contraception and Legalization of Abortion (2002).

Post-Beijing Status: Argentine government representatives to Beijing insisted in condemning abortion as a fertility control method or tool for population policies. Accepted recommendation to revise punitive laws. In 2000 in Beijing+5 in New York, Argentina did not join the SLAC group (Some Latin American Countries), and stayed in the G-77 with Sudan, Pakistan and Algeria, for not excluding abortion as a contraception method. The government instructed them to establish the right to life after conception. Differences between delegation members because of the Secretary of Foreign Affairs' clear opposition to decriminalization or legalization of abortion. Permanence of punishable abortion law. National Women's Department's plan to reduce maternal deaths.

¹ *Clarín*, 8 June 2000.

ABORTION

Catholic Church: trends, opinions, strategy	<p>Legal Status: Church is against abortion. Active campaign against abortion during 1994 Constitutional Reform. In 1996 it issued a press release requesting candidates to elections in Buenos Aires to ban abortion in City Statutes. In 1998 the Church urged other countries to follow Argentina's lead and proclaim the "Day of the Unborn Child".</p> <p>Beginnings of Human Life: In 1994, in the context of the Constitutional Reform and during the 1996 elections in Buenos Aires, the Church fought abortion, arguing that human life begins at conception.</p> <p>Legislative Initiatives: Twelve abortion bills submitted to both chambers of Congress since 1983. Two tried to repeal the provision allowing some abortions, five tried to improve its wording, three tried to legalize abortion, one tried to decriminalize it and one sought to entrench protection of the unborn in the Criminal Code. The last bills presented at the Chamber of Deputies came from the Bloque Socialista por la Despenalización del Aborto (Socialist Block for the Decriminalization of Abortion) and Deputy Luis Zamora: Sex education, Contraception and Legalization of Abortion (2002).</p>
Evangelical Protestants	<p>Legal Status: Members of the "historical" protestant churches expressed their pastoral concern towards preventing abortion through strategies based on information and education; and unwanted pregnancies that could lead to drastic undesired solutions.</p> <p>Beginnings of Human Life: At conception.</p> <p>Health care (Abortion and other): They propose a reward and compensation system to make abortion less attractive and motherhood less risky. Providing medical services and adequate accommodation for women who would otherwise consider abortion as only choice.</p>
Other religious groups	<p>Legal Status: The Jewish community expressed that their faith strictly prohibits abortion since it kills a living being. Moslems stated that abortion is prohibited under any circumstance and that women undergoing abortion are subject to fines and divine retribution.³</p> <p>Beginnings of Human Life: In 1999 President Menem proclaimed the "Day of the Unborn Child", flanked by members of the Islamic Center, the Jewish Community, several orthodox priests and leaders of the Protestant, Lutheran and Baptist churches.⁴</p> <p>Legislative Initiatives: Members of the "historical" Protestant denied that the Bill on Reproductive Health of Buenos Aires was pro-abortion.</p>

² *Clarín*, 8 June 2000.

³ *La Nación*, 23 May 1994.

⁴ *La Nación*, 27 March 1999.

ABORTO

Political Parties

Legal Status: During the Constitutional Reform debate of 1994 President Menem (Justicialista Party) said he was willing to rescind exceptions in the Criminal Code. The UCR (Radical Civil Union) and the Frente Grande stand against banning abortion in the 1994 Constitution. The Democratic Center Union, the Justicialista Party and several other provincial parties favor a ban. In the 1996 Buenos Aires elections, no new candidate (Nueva Dirigencia, UCR, JP and FREPASO) expressed the will to include abortion in party bylaws. During the presidential campaign of 1998, all candidates -except for Fernández Meijide- opposed abortion. At the ARI both positions -against and in favor of decriminalization- coexist. 2003 Elections: Socialist Bravo: agree on strategies to fight morbidity and mortality caused by abortion. Moreau, UCR: Extend grounds for decriminalization to rape and congenital malformations incompatible with life. Walsh, IU: Favor legislating on non-punishable abortions, drafting of a bill to legalize abortion. Zaffore, MID: Against abortion, does not propose to extend the legal framework, promotion of the Institute for Adoption. Menem, PJ: Repudiates abortion, defends Catholic Church position.

Beginnings of Human Life: During 1994's Constitutional Reform, the Justicialista Party tried to include a clause stating the beginning of human life at conception in the Constitution. De La Rúa, elected by the Alianza (1999-2001) reasserted his defense to the right to life. Discrepancies inside the alliance between the UCR and FREPASO.

Legislative Initiatives: Socialists backed up by Radicals presented to the Chamber of Deputies a bill to decriminalize abortion when the mother's physical or psychological health was highly jeopardized, when the pregnancy was a result of a rape or persuasive rape of a minor, and when the fetus' life outside the womb was unviable.

HIV/AIDS

Public Policies

Legal Recognition: AIDS Law 23798 of 1990 establishes measures for AIDS detection, research and diagnosis, declares fighting AIDS a national concern. Decree 1244 of 1991 of Law 23798. 1995 Decree 908. Approves regulatory standards for performance of diagnostic tests required for detection of HIV carriers within Armed and Security Forces. In 1992 the Ministry of Health creates National Program Against Human Retrovirus and AIDS: free provision of medication to low-income population, research on virus detection. 2002 Law 25673 creates National Sexual Health and Responsible Procreation Program which proposes contributing to prevention and early detection of STDs and HIV/AIDS. Provincial Law: 1994 Law 11506, Province of Buenos Aires. AIDS prevention, research and treatment. 1989 Law 10339 and 1996 11460, Province of Santa Fe. Non-discrimination Law 23952.

HIV/AIDS

Public Policies

Health care: 1995 Law 24445. All social welfare and social welfare associations of the National System included in Law 23661 must offer coverage for medical, psychological and pharmaceutical treatments for people infected by the human retroviruses and AIDS, and for the AIDS prevention programs. 1996 Law 24754 establishes that the companies or entities offering pre-paid medical services must cover at least the “mandatory health care services” established by social welfare. Ministerial resolutions specify and regulate the health care for people living with HIV/AIDS and STDs: 1992 Resolution 528, establishes in the Mandatory Medical Program (PMO) that Social Welfare must participate in the AIDS prevention programs; The Annex to 1992 Resolution 454/92, establishes the norms condoms must comply with; 1997 Resolution 105 approves the Norm on Perinatal AIDS Transmission; 1997 Resolution 625 defines the elements the Social Welfare and private companies offering prepaid medical services must consider in the coverage of HIV/AIDS.

Prevention: 1991 Decree 1244 incorporates AIDS prevention as part of the primary, secondary and university education plans. 2002 Law 25673, Creation of the National Sexual Health and Responsible Procreation Program intends to contribute to the prevention and early detection of STDs and HIV/AIDS. To detect risk behaviors and offer surveillance for risk groups, or which they would strengthen and improve the district and community resources, in order to educate, advise and cover all the levels of prevention of STDs and HIV/AIDS. To establish an adequate system of health control for the early detection of STDs and HIV/AIDS. To perform diagnosis, treatment and rehabilitation.

Prevention through sex education: The National Program of Fight Against Human Retrovirus and AIDS (Ministry of Health and Social Welfare) among its objectives, includes training for educators and counseling collaborators in their role as prevention agents in each province. The Secretariat of Education of the City of Buenos Aires and the Secretariat of Health, Culture and Social Development, UNICEF and the Faculty of Psychology of the University of Buenos Aires develop a program for Promotion of Sexual Health and AIDS Prevention for public school third grade students (workshops and drama performances).⁵

Catholic Church: Trends, opinions, strategies.

Health care: Proposes fraternal assistance for carriers and patients and family support.

Prevention: Prevention through information, education, faithful and responsible love inside married couples and sexual abstinence. Strong pressure to incorporate condom use in prevention campaigns.

Prevention through sex education: Regard information and education as best ways to prevent.

⁵ *Clarín*, 29 May 2002.

HIV/AIDS

Evangelical Protestants	Health care: They have principles related to AIDS they apply in their pastoral work, which consists in giving hospitality, care and inclusive fraternity for all people.
	Prevention: Strong emphasis on risk groups, education and informing about the disease, and the modification of people's sexual behavior. Opposed to "risk-free sex" as a method to prevent AIDS. They value monogamous, heterosexual and faithful sexuality inside marriage. Abstinence among single people, faithfulness inside marriage and abstaining from intravenous drug use.
	Prevention through sex education: Privilege education and behavioral change as prevention methods. Agree with sex education at schools, presenting AIDS as a STDs and as a matter concerning everybody.
Other groups	Legal Recognition: N/A
	Health care: N/A
	Prevention: N/A
	Prevention through sex education: N/A
Political Parties	Legal Recognition: N/A
	Health care: N/A
	Prevention: N/A
	Prevention through sex education: N/A

FERTILITY REGULATION

Public Policies	Legal Status: 2002 Law 25673 Creates National Sexual Health and Responsible Reproduction Program. Federal Health Agreement, San Nicolas, 03/223/03, includes Reproductive Health Program. 14 Provincial Laws on Reproductive Health. City of Buenos Aires Law. Information from the Responsible Reproduction Program since 1987.
	Use of CM: Contraception supplied by national and provisional programs must be reversible, transitory and non-abortive.
	Use of EC: In 2002 the Supreme Court ordered confiscation of emergency contraceptives although there is a new formula for sale. Some provinces include EC rules in their local sexual and reproductive health programs. Mendoza and Rosario give them out at public health care centers.
	Surgical Contraception: Banned as a family planning method. Law 17132 on the Professional Exercise of Medicine prohibits sterilization surgery without a therapeutic reason. The Criminal Code considers sterilization major injury. Public Hospitals request courts to protect doctors against unethical conduct claims. Judges sometimes deny permission. Rio Negro is the only province that modified Law 17132 and established that IUDs and vasectomy are legal, which do not need court's permission inside the province. The Ombudsman for Buenos Aires called for an experts' agreement, who suggested legal authorization shouldn't be necessary in cases of medically prescribed IUDs. This measure was promoted by the Ombudsman in public hospitals.
	Legislative Initiatives: 1995: Chamber of Deputies passes bill creating Responsible Reproduction Program; it dies in 1997 after Senate refusal to discuss it. 2001: Chamber of Deputies passes bill creating Responsible Reproduction Program; Senate concurs in 2002.

FERTILITY REGULATION

Public Policies	<p>Post Beijing Situation: New discussion arose from the international agreements of the Cairo and Beijing conferences. Reproductive health laws were approved in several provinces and municipalities. In 2000 at Beijing +5 in New York, Argentines didn't join the SLAC (Some Latin American Countries) group, staying in the G-77 with Sudan, Pakistan and Algeria, since abortion was not included as a CM. The Foreign Affairs Ministry instructed its delegation to establish life at conception. Argentina remained silent during discussion of sexuality, contrary to the Argentine delegations'⁶ position. After participating in the 23rd Special Session of the UN General Assembly: "Equality Between Genders, Development and Peace for the 21st Century, Beijing + 5", June, 2000, there was significant redefinition of reproductive rights issues and strategic policy, advancing on fulfillment of strategic goals set in the World Action Platform (1995-2001). Argentine Ambassador Enrique Candiotti stated: "We want to say also that the commitment to guarantee the protection of women's human rights includes sexual and reproductive rights, a commitment reflected in the policies the authorities are leading through measures aimed at reducing maternal mortality, preventing teenage pregnancy and protecting motherhood and women's health, assuring the unrestricted right to freely and responsibly decide on when and how many children to have, respecting life and their deep convictions, all this in relation to the values and premises that inspire the Argentine government's position."</p>
Catholic Church: trends, opinion, strategy.	<p>Legal Status: Opposition to Law 25673. Argentine Bishops said that "the initiative promotes prescriptions of elements and CM contravening the natural order, harms personal dignity and is morally unacceptable." In 2002 Church spokesmen and Catholic organizations opposed the Act "because its intent is to decriminalize and even legalize abortion".⁷ ⁸ Pro-life groups against specific aspects of the law.</p>

⁶ *Clarín*, 6 August 2000.

⁷ *Clarín*, 11 January 2002.

⁸ Objections included parental consent for minors; the need to specify that "abortive" refers to any medication or device that would cause the death of a human being from the moment the egg is fertilized; and conscientious objection by health care providers. 1. This law decriminalizes abortion through chemical methods, since it does not specifically say that abortive refers to any method that prevents a fertilized egg from reaching the uterus; 2. Promotes an anti-birth mentality, which directly or indirectly leads to a pro-abortion mentality. (*Evangelium vitae*, n. 13); 3. It takes for granted the anti-natural principle which separates the unitarian and procreative aim from the sexual relation; 4. The law banalizes sex, especially among teenagers. It jeopardizes parental rights since Article 4 states that above all is the child's superior interest in the full enjoyment of his rights and guarantees; 5. It does not guarantee conscientious objection by doctors and public school teachers; 6. Therefore, it is what moral doctrine calls an iniquitous law. As noted in a letter to Senators by the Conference of Catholic Bishops before the vote, this is a morally unacceptable, iniquitous law which should be challenged and rejected by all peaceful means, as the Catholic Catechism (1901-1904, especially 1902) teaches and John Paul II expressed in *Evangelium Vitae* (n. 73), even if this leads to painful decisions that "could demand sacrificing consolidated professional positions or giving up legitimate professional advancement" (n. 74); 7. "There is no reason for a mentality of abandonment that leads people to consider laws against life -those that legalize abortion, euthanasia, sterilization and family planning using methods against life and the dignity of marriage- as inevitable and almost a social need. On the contrary, they are a precursor to the corruption of society and its foundations. Civic and moral conscience cannot accept this false inevitability, just as it does not accept the inevitability of wars or ethnic cleansing (...)" ; 8. It is mandatory to oppose and also try to change the law: all means possible should be used to eliminate this legalized crime or at least limit the harm by keeping alive awareness of the radical duty to respect life from conception to natural death, including that of the least endowed among us. (John Paul II, Address at the Academy of Life, February, 14, 2000).

FERTILITY REGULATION

Catholic Church: trends, opinion, strategy.	Use of CM: Catholic Church accepts it considers “natural”, periodic sexual abstinence. IUDs are deemed abortive.
	Use of EC: Strong pressure in 2002 on the Supreme Court against use of EC. Church says EC trivializes abortion.
	Condom use: Opposed to condom use. Against AIDS prevention campaigns promoting condom use.
	Surgical Contraception: Tubal ligation and vasectomy are open mutilations of the human body against the morale that demands the preservation of the person's natural integrity.
	Legislative Initiatives: Imposed its restrictive ideas each time there was an attempt to present a national bill on fertility control.
Evangelical Protestants	Legal Status: Churches and religious organizations presented a statement to the majority requirement of the Reproductive Health Act of the City of Buenos Aires. ⁹
	Use of MC: Lack of education and access to responsible reproduction worsen unwanted pregnancy problem. State deep pastoral concern over early and unwanted pregnancy and access to birth control.
	Condom use: No open opposition to condom use.
Other religious groups	Legal Status: N/A
	Use of MC: N/A
	Use of EC: N/A
	Condom use: N/A
	Surgical Contraception: N/A
	Legislative initiatives: N/A
Political Parties	Post Beijing Situation: N/A
	Legal Status: 2003 elections: Bravo, socialism, Moreau (UCR), Carrió (ARI), Walsh (IU), Zaffore (MID): support National Program on Sexual health and Responsible Reproduction. Kirchner (PJ), Menem (PJ), López Murphy (Recrear): Favor mother/child programs. Menem (PJ): child care since conception.
	Legislative initiatives: ARI recently presented a bill in Buenos Aires to regulate IUDs and vasectomy in the public sector, with support from legislators from the UCR, Independent Peronism and the IU. Similar bill presented by Socialist Clori Yelisc.

⁹ Including the Anglican Church, Dioceses of Argentina; United Lutheran Evangelical Church; Evangelical Church of Río de la Plata; Evangelical Church of Christ's Disciples; Argentine Methodist Evangelical Church; Evangelical Waldensian Church of Río de la Plata (Social Services Centers); United Christian Education Council; Latin American Council of Churches, Río de la Plata (CLAI); Argentinean Refugee Commission; Ecumenical Center for Social Action (CEAS); Argentine Federation of Evangelical Churches (FAIE); Ecumenical Movement for Human Rights (MEDH); Ecumenical Pastoral for Solidarity with People Living with HIV/AIDS; Regional Women's Coordinating Committee of the Lutheran World Federation; Women's Forum of the Latin American Council of Churches; Orientation Center for Family and Community Life (COVIFAC). Law 25673 of 2002 creating the National Sexual Health and Responsible Procreation Program; objectives include prevention and early detection of STDs and HIV/AIDS.

SEX EDUCATION

Public Policies

Public Policies: Included in the Constitution of the City of Buenos Aires. Sexuality workshops in high schools organized by the Council for the Rights of Boys, Girls and Adolescents of the Government of the City of Buenos Aires. Included in the School Health Program of the Government of the City of Buenos Aires since 1987. Ministry of Education promotes debate on sexuality in schools (late years of primary school and multimodal) through the Centers for Juvenile Activities in Cordoba, Santa Cruz, Chaco, Tucumán and Jujuy.¹⁰

Sexual and Reproductive Rights: Recognized in the Constitution of the City of Buenos Aires.

Gender Equity: Federal Education Act 24195 of 1993 establishes that sector policy should seek equal opportunity, oppose discrimination, end discriminatory stereotypes in school materials and permanently integrate men and women into the educational process. Constitution of the City of Buenos Aires recognizes and guarantees an educational system guided by the principles of freedom, ethics and solidarity, ensures equal opportunity and instructs incorporation of issues of human rights and sex education in basic educational plans and an overall gender perspective. (Arts. 23 and 24) Law 474 of the City of Buenos Aires, 2000, Real Equal opportunity and Relations between Women and Men. Government of the City of Buenos Aires signed Act committing to Real Equal opportunity and Relations (2002). Law 25273, Formosa, prohibits discrimination against pregnant girls enrolled in school.

Abortion: Unwanted pregnancy prevention through education and information included in the provincial and national reproductive health programs.

Sexual Orientation: In 2002, the legislation of the City of Buenos Aires incorporated a bill of Civil Union promoted by the Argentinean Gay Community. The law established the creation of a “public registry” for civil unions without requirements of sex or sexual orientation. This way, couples living together for at least 2 years can enjoy benefits such as the extension of the social action, sick leave allowances due to the partner’s illness and subsidies or pension payments on behalf of the Buenos Aires government.

Catholic Church: trends, opinion, strategy.

Legal Status: Human sexuality requires a love-based education, to ensure the centrality of the family and promote its social role¹¹. Argentine Pro-Life groups recommend parents to “notify the directors of their children’s schools, that they do not authorize sex education contradicting their principles.”

Sexual and Reproductive Rights: Persistent attitude of Argentine Bishops against sexual and reproductive rights.

Gender Equity: Sexuality has been incorporated as an element of communion. It is truly human when part of the love between man and woman. This love that at the same time expresses and foments the union between man and women is also meant to be fecund. Marriage is the adequate place for a sexual relation.¹² Strong opposition to the Civil Union Act.

¹⁰ *Clarín*, 9 January 2002.

¹¹ Standing Committee of the Conference of Catholic Bishops of Argentina, 8 November 2000.

¹² *Ibid.*

SEX EDUCATION

Evangelical Protestants	<p>Legal Status: Defend unrestricted right of parents to educate children in issues of sexuality. Relevance of sex education to prevent early pregnancies and abortion. Agree with sex education at school.</p> <p>Gender Equity: Relevance of access to birth control and education recognizing and expressing women's dignity and freedom, as society already ensures for men. They express pastoral concern over degradation of women's main role in controlling their own bodies, since they are not considered as subjects of ethical decisions but rather as the object of legal rules.</p> <p>Abortion: Members of the "historical" Protestant Churches express pastoral concern about abortion prevention through measures based on information and education. They accept sex education in schools to favor responsible reproduction, although they privilege parents' role.</p> <p>Sexual Orientation: Value sexuality inside a monogamous, heterosexual and faithful relationship between married couples. Tolerance of differences.</p>
Political Parties	<p>Legal Status: 2003 elections; Menem (PJ): highlights parents' right to choose children's education. Bravo (socialist), Moreau (UCR), Walsh (IU), Zaffore: sex education in all educational institutions. López Murphy (Recrear): prevent and educate on teenage pregnancy.</p>

SEXUAL AND GENDER VIOLENCE

Public Policies	<p>Legal Status: Constitution does not include specific rules on the right to physical integrity. In 1999 Criminal Code is amended. "Crimes against honesty" is replaced by "Crimes against physical integrity". Mandates prison terms for sexual abuse against minors 13 years or younger. 1994 Law 24417 Protection against Family Violence. Domestic Violence is defined as physical or psychological harm or mistreatment of one family member by another. 1996 Decree 2356 regulates it. From a total of 24 districts, 3 still do not have a domestic violence law (Salta, Formosa and Santa Cruz). Existing laws give judges little room for action. Constitution of the City of Buenos Aires, in chapter concerning boys, girls and adolescents, includes protection for victims of violence and/or sexual exploitation. It also includes prevention of physical, psychological and sexual violence against women. CEDAW included in 1994 Constitutional Reforms. National Women's Council in charge of encouraging and monitoring the Inter-American convention to prevent, sanction and eradicate violence "Convention of Belém do Pará" sanctioned by Law 1996 N°24632. 2001 Law No. 12764, Province of Buenos Aires, on Sexual Harassment. 2001 Law No. 11,948 modifies the Offenses Code of the Province, including new article (78 bis) on Sexual Harassment. Bylaw No. 47,506, AD 230-57 BM, 01/17/1994 incorporates <i>sexual harassment</i> as a punishable offense, in the disciplinary regime ruling the City of Buenos Aires.</p>
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SEXUAL AND GENDER VIOLENCE

Public Policies

Health care: Government policy has essentially dealt with welfare issues and with providing psychological and legal advice at public facilities or through grants to women's NGOs. While specialized NGOs have received service delivery grants, there are not enough prevention programs directly reaching target groups, and resources for cases where lives may be at risk are scarce. Service providers use a range of methods and approaches, some of which are not always gender-aware or address the particular needs of women seeking help. Women's shelters exist only in some districts - one per 10,000 individuals is recommended- and its continuance is in question due to budgetary and political issues.¹³ There is also a dearth of public policies and resources for victim rehabilitation (i.e., housing, employment, psychological and follow-up needs), which helps reinforce the cycle of violence and its transmission from one generation to the next. This also hinders training and education of police, military, justice system and penitentiary personnel. Although official reports say they do exist, they are not regular, its efficiency is not monitored and its performance is not assessed. There is no publicity and results are not made public. On the other hand, the State does not offer other necessary services: they still haven't managed to set up a proper statistical method capable of providing qualitative and quantitative data for the whole country; services are not monitored adequately; there are no massive and continuing campaigns and the issue has not been taken to other spheres of the State. 1996 Decree 235 requires information and counseling centers on physical and psychological violence to be made available in hospitals, legal services, community centers, Children and Family Council, National Women's Council, State Women's Office of the City of Buenos Aires, and school districts through the Domestic Violence Prevention and Counseling Program of the Education Department of the City of Buenos Aires. Most provinces have laws aimed at this purpose. The Constitution of the City of Buenos Aires requires specialized care services for women victims of violence.

Prevention: Law 24417 Declaration 5144-D of 1995 of the Lower House in favor of a national campaign against domestic violence. Resolution 109 of 1996 of the Ministry of Justice, Decree 235 of 1996. Preventive action in: hospitals, legal services community centers, Children and Family Council, National Women's Council, State Women's Office of the City of Buenos Aires, and school districts through the Domestic Violence Prevention and Counseling Program of the Education Department of the City of Buenos Aires. The Constitution of the City of Buenos Aires is in charge of preventing physical, psychological and sexual violence against women.

¹³ Currently we are aware of shelters in Saladillo (Province of Buenos Aires), Rosario (Province of Santa Fe) and in the City of Buenos Aires.

SEXUAL AND GENDER VIOLENCE

Public Policies

Rape: Vaginal, oral or anal penetration is a major crime, as well as sexual abuse. The Criminal Code includes the crime of statutory rape, which definition was modified changing “honest women above 12 years of age and less than 15” for “person less than 16 years of age.” The norm stating that the perpetrator of rape was freed from punishment if he married with the victim was left with no effect. However, it is now possible to reach an arrangement with perpetrator of the crime. Argentina’s criminal law does not include marital rape. In the Criminal Code sexual harassment is considered under the section of rape. The City of Buenos Aires has an ordinance where sexual harassment is considered a punishable offense, with consequence of sanction or unemployment. The Labor Contract Act does not include any article referred to this matter. Many bills have been presented to Parliament in order to make sexual harassment punishable. In 2001 a bill on Labor Violence was introduced into the Senate. It was drafted by the Woman’s Program of the Justicialista Senate Caucus and the Equal Opportunity Department of the Public Service Union. The bill made sexual harassment a crime.

Post Cairo and Beijing Situation: In the framework of the Ad Hoc National Working Group for the Action Plan of the Fourth World Conference on Women, created in 1996 by Decree Law PEN 1013, in compliance with the commitments made in Beijing, regional seminars and workshops have been carried out throughout the country among which main topics was violence against women. Signature of the CEDAW Optional Protocol in February, 2000.

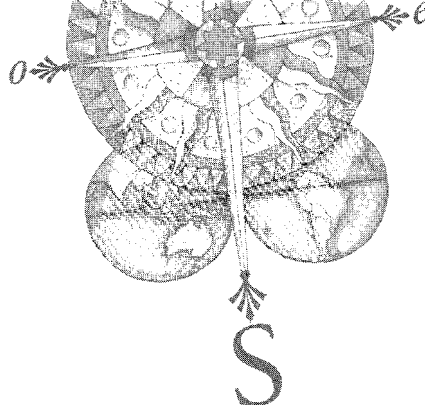
Catholic Church: trends, opinion, strategy.

Legal Status: With respect to the Integrated Assistance Program for the Victims of Sexual Offenses the City of Buenos Aires, the Church said it was an attempt to trivialize abortion by including EC.

Post Cairo and Beijing Situation: Although Argentina signed the CEDAW Optional Protocol on April 30, 2002 the Government withdrew a ratification bill from the Senate. Organizations participating in this report believe this was due to strong pressure on behalf of the Catholic Church. President Duhalde and former Vice-President Ruckauf objected on grounds that it would “impinge on our sovereignty and did not contain adequate safeguards about interpreting it as paving the way for legal abortion.”

SEXUAL AND GENDER VIOLENCE

Evangelicals	Legal Status: N/A
	Health care: N/A
	Prevention: N/A
	Rape: N/A
	Post Cairo and Beijing Situation: N/A
Other religious groups	Legal Status: N/A
	Health care: N/A
	Prevention: N/A
	Rape: N/A
	Post Cairo and Beijing Situation: N/A
Political Parties	Legal Status: N/A
	Health care: N/A
	Prevention: N/A
	Rape: N/A
	Post Cairo and Beijing Situation: N/A



COLOMBIA

Leading Issues, Policies, Laws, Players and Positions

ABORTION

Abortion

Legal Status: Criminalized in all cases under the new Code (Law 599/00). There are extenuating circumstances for the penalty and a cause for decriminalization, which depends on the Judge. The Code incorporates fetal

Beginnings of Human Life: Only under Article 90 of the CCC: the existence of an individual begins when it completely detaches from the mother's womb and survives... The law protects the rights of the unborn.

Health Care (Abortion and Others)

INCOMPLETE ABORTION

Public hospitals, ESES, and private health institutions should care for incomplete abortion and abortion complications (Law 100/93). Sexual and reproductive health's /99 Plan specifies standards for comprehensive post-abortion care.

ABORTION Remains clandestine. Safe abortions available privately, though poor information and cost restrict access. Dangerous practices still exist.

Sex Education: Mandatory in school and includes preventing unwanted pregnancy and abortion as a "social and ethical problem". Sex education is biased.

- Resolution 03353/93
- General Education Act (115/94)
- Ministry of Health Resolution (1996): Sex education outline for the health sector.
- Youth Act (375/97)
- Sexual and Reproductive Health Plan (SRHP), 1999

Legislative Initiatives: Between 1975 and 2002 seven bills called for decriminalization of abortion under certain circumstances. Current: Project 580/02 on sexual and reproductive health that considers decriminalization under certain circumstances. Health Ministry project on sexual and reproductive health policy.

Public Policies: No specific policy. Mentioned as a health problem in sexual and reproductive health/99 Policy. Not mentioned in sexual and reproductive health policy.

Post-Beijing Status: Expediting policies from the health sector, in sexual and reproductive health that include prevention of unwanted pregnancy and abortion, and comprehensive post-abortion care. Punitive legislation on abortion remains.

Catholic Church.
Catholic Groups:
Vida Humana
Internacional,
Derecho a Nacer,
Opus Dei

Beginnings of Human Life: Human life begins at conception. It is a sacred, absolute right that should not be countered by any other. Abortion is morally wrong. End does not justify the means (in therapeutic abortion, eugenics, pregnancy by rape). In a country with so many murders no more should be allowed.

ABORTION

Catholic Church. Catholic Groups: Vida Humana Internacional, Derecho a Nacer, Opus Dei	<p>Health Care (Abortion and Others) To avoid considering abortion as a public health problem and to decriminalize it (e.g.: to have a say in the ICPD document, in different bills, and to present claims regarding its constitutionality).</p> <hr/> <p>Sex Education: It opposes sex education recognizing that teenagers are sexually active. It opposes informing on modern contraception, condom use or any method other than abstinence.</p> <hr/> <p>Legislative Initiatives. Unanimous position against decriminalization of the Catholic leadership, supported by Catholic groups. Participates in and influences the public debate: the media, documents sent to the Government and Congress, legislative lobby, demonstrations, signature drives. Strategies include violent methods.</p> <hr/> <p>Post-Beijing Status: After influencing the Colombian document for the ICPD and the delegation itself, the Catholic leadership maintains traditional stance.</p>
Other religious groups	<p>Health Care (Abortion and Others) Some provide sex education services (counselling against abortion), child adoption and post-abortion counseling and support services. Others have child adoption programs.</p> <hr/> <p>Sex education: Openly oppose official sex education, arguing it is a family privilege. Strategies: communicational, lobbying, and reaching key officials (e.g., Board of National Sex Education Project).</p> <hr/> <p>Legislative Initiatives: They adhere to the strategies of the Catholic Church. They perform an “informative” role and exert pressure on members of Congress. They have their own programs in the media.</p> <hr/> <p>Post- Beijing Status: Very active before and after ICPD and Beijing.</p>
Evangelical Protestants	<p>Beginnings of Human Life: Agree with Catholic Church but do not participate in public debate.</p> <hr/> <p>Health Care (Abortion and Others): Positions are conservative on anything to do with sexuality, particularly in teenagers and women.</p> <hr/> <p>Sex education: Oppose and criticize sex education. Extreme fundamentalist positions on women, sexuality, contraception, and abortion.</p> <hr/> <p>Legislative Initiatives: They strongly influence followers’ sex life. Evangelical members of Congress are active in the abortion debate, especially through the media.</p> <hr/> <p>Post- Beijing Status : Not been active in international conferences.</p>
Social Movement, Feminist Groups Other Leaders	<p>Beginnings of Human Life: Abortion should be decriminalized as a reality that requires health policies rather than punitive action. Criminalization impinges on reproductive autonomy, life and health rights, the right to freely develop one’s personality, freedom of conscience, leads to clandestine solutions and generates inequity.</p> <hr/> <p>Health Care (Abortion and Others): Abortion as a public health issue: indexes of morbidity/mortality per abortion Abortion as the last option when dealing with unwanted or untimely pregnancy. Catholic women do not follow the teachings of the Church regarding abortion. Power of the State to issue laws and policies on this matter.</p> <hr/> <p>Proyectos de Ley: Diversas actividades educativas, informativas y de «advocacy». Aunque con limitaciones: Utilización de medios de comunicación, en especial la radio. Lobby con funcionarios públicos y legisladores.</p>

ABORTION

Social Movement, Feminist Groups Other Leaders	<p>Legislative Initiatives: Several educational, informational and advocacy activities. To some extent: media usage, specially radio. Lobbying on public officers and legislators</p> <p>Post- Beijing Status : The stances of theologians and clergymen, who consider abortion as a matter of conscience, are strengthened. Creation of Catholics for a Free Choice.</p>
Political Parties	<p>Legislative Initiatives: They do not make announcements as a party at the debates due to electoral interests.</p>

FERTILITY REGULATION

Public Policy	<p>Legal Status: There is no law. - Health and Social Security System: Mandatory Health Plan and Basic Care Plan - sexual and reproductive health/99 Policy - sexual and reproductive health/99 Plan - Ministry of Health Resolution (2000): Technical standards for sexual and reproductive health, including Family Planning.</p> <p>Use of contraception: 77% of women in a relationship use CMs. Main contraception service provider is the private sector: 69.4% Public sector: 30.6%</p> <p>Use of EC: Health System Protection Standards for Family Planning Care, include EC. Profamilia offers EC since 2001. Other private entities also, but in a small amount.</p> <p>Condom use: 99.5% of women know about it. 6.1% of women in a relationship use it. 21.2% of women not in a relationship but sexually active use it.¹ Scant usage among teenagers: 17.9%.</p> <p>Voluntary Sterilization: Most widely used method among women who are married or in a relationship: 27%</p> <p>Legislative Initiatives: Project on sexual and reproductive health Policy</p>
Catholic Church: trends, opinions, strategy.	<p>Legal Status: There is tolerance, with sporadic debate on some methods, especially emergency contraception.</p> <p>Use of contraception: The Catholic leadership has been tolerant. Widespread usage.</p> <p>Use of EC: Catholic leadership argues it is abortive.</p> <p>Condom use: Openly oppose use by teenagers (preach abstinence instead), and couples, calling it an “artificial” method. No public debate.</p> <p>Voluntary Sterilization: No significant public debate; opposition to “artificial” methods continues.</p> <p>Legislative Initiatives: N/A</p>
Evangelical Protestants	<p>Legal Status: Do not publicly debate the issue.</p> <p>Use of contraception: Generally dismissive of them during services.</p> <p>Use of EC: Have not participated in the debate.</p> <p>Condom use: Do not publicly state an opinion but agree on youth celibacy. Some condemn barrier methods.</p> <p>Voluntary Sterilization: There is no debate.</p> <p>Legislative Initiatives: N/A</p>

¹ Demographics and Health survey of women of childbearing age.

FERTILITY REGULATION

Other religious groups: Vida Humana Internacional, Derecho a Nacer Opus Dei	Legal Status: Pro-birth stance.
	Use of contraception: They attack modern methods (videos, radio and TV programs, Internet, brochures).
	Use of EC: Since 2000 they regard method as abortive.
	Condom use: Recommended for youngsters because it promotes abstinence.
	Voluntary Sterilization: There is no debate, but it is included in the modern methods they attack.
	Legislative Initiatives: N/A
Political Parties	Post Beijing Situation: Active since ICPD
	Legal Status: Do not participate in debate as political parties.

SEX EDUCATION

Public Policies	Legal Status: Resolution 03353/93*;- General Education Act (115/1994); Ministry of Health Resolution (1996): sex education outline for health sector; Youth Act (375/1997); Sexual and Reproduction Health Plan/1999; * Reduces National Sex Education Project to shadow of former self.
	Sexual and Reproductive Rights: Part of Sex Education Plan.
	Gender Equity: Definite objective of National Sex Education Project. Gender inequity is considered a vulnerability factor in HIV/AIDS prevention programs.
	Abortion: Part of Sexual and Reproduction Health Plan: "Abortion as a social and ethical problem", as well as legal aspects and prevention of unwanted pregnancy.
	Sexual Orientation: A component of the Sexual and Reproduction Health Plan. Included in Mandatory Health Plan (POS), public information, health-related education.
	Health Care: Set forth in the Basic Care Plan, covering health promotion, disease prevention and epidemiological vigilance, family planning, and the Mandatory Health Plan (POS), which gives personal care within the Health Social Security System. The system has had setbacks affecting quality and access. Teenager services are poor.
Catholic Church	Legal Status: Initial opposition to National Sex Education Plan; presently opposing many of its components.
	Sexual and Reproductive Rights: Oppose sex and reproduction as rights.
	Gender Equity: There is tolerance of gender equity but qualms about sexual equity.
	Abortion: Only accepts education that follows the Church position on abortion
	Sexual Orientation: Only debates proposals in favor of gays.
Evangelical Protestants	Legal Status: N/A
	Sexual and Reproductive Rights: Do not participate in the debate.
	Gender Equity: Many groups oppose it, but not in public.
	Abortion: Open opposition through members of Congress.
	Sexual Orientation: Homosexuality is frowned upon but there is no public debate.

EDUCACION SEXUAL

Other Groups: Vida Humana Internacional, Derecho a Nacer, Opus Dei.	Legal Status: Oppose sex education and contents of Sex and Reproduction Health Plan. Opus Dei took control of, then killed Plan.
	Sexual and Reproductive Rights: They openly oppose it.
	Gender Equity: They equate gender equity to promiscuity and abortion and are against it.
	Abortion: Overt opposition.
	Sexual Orientation: Overt opposition.
Political Parties	Legal Status: Do not participate in debate as political parties.

HIV/AIDS

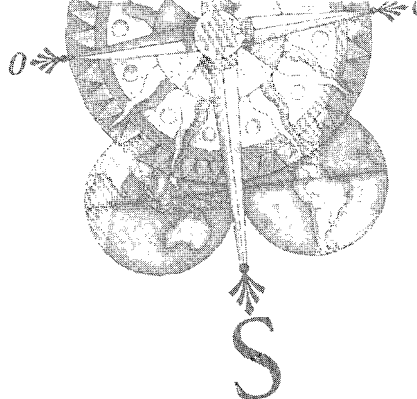
Public Policies	Legal Status: Decree-Law 1543 (1997): regulates handling of STDs and HIV/AIDS per the 1991 Constitution and Law 100 (1993) on Health Social Security.
	Health care: Provided by the Mandatory Health Plan (POS) of the Health and Social Security System. HIV/AIDS patients have had difficulty joining Sexual and Reproduction Health Plan and having access to treatment. Those not covered by the system face a bigger problem since entities that should serve them have no resources for treatment. No comprehensive care and difficult access to testing at Health Promotion Companies (Sexual and Reproduction Health Plan).
	Prevention: There is an HIV/AIDS Prevention and Control Program from the Ministry of Health, with a participatory approach, across all sectors, and decentralized, with different strategies. No promotion and prevention activities in the Health Social Security System.
	Prevention Through Sex education: National Sex Education Project and Ministry of Health lead HIV/AIDS prevention. In 1999 the STDs/HIV/AIDS Prevention Cross-Sector Educational Project trained school leaders.
	Sexual and Reproductive Rights: International agreements approved by Colombia per Decree 1543/1997.
	Post Cairo and Beijing Situation: Information regarding rights, sexual and reproductive health and development has increased and improved.
Catholic Church	Legal Status: N/A.
	Health care: Initially with a sense of charity but with a reproachful discourse. Since International Ecumenical consultation on Churches and AIDS (1999), the "illness-sin" link is avoided.
	Prevention: Participates in prevention projects with other Churches.
	Prevention Through Sex education: Prevention in social pastoral activities and in official programs.
	Sexual and Reproductive Rights: Traditional stance, but in HIV/AIDS cases it involves Human Rights aspects.

HIV/AIDS

Evangelical Protestants	Legal Status: N/A
	Health care: N/A
	Prevention: Some groups participate in prevention projects.
Other Religious Groups	Legal Status: N/A
	Health care: N/A
	Prevention: Promote teenager abstinence and fight homosexuality and promiscuity.
	Prevention Through Sex education: They attack the Sex education Project.
	Sexual and Reproductive Rights: They attack rights-based arguments.
Political Parties	Legal Status: N/A.

SEXUAL AND GENDER VIOLENCE

Policy and legislation	Legal Status: Criminal Code - Law 599/00 Law 248/1995 approves Convention of Belém do Pará. Law 294 (1996) and 575 (2000): domestic violence; partially in force. Law 360 (1997), partially in force.
	Health Care: Life, Health and Peace Policy: Health sector Confronts Violence in Colombia. Standards for helping battered women, Ministry of Health (1999). No specific health system services. Some municipalities have victim programs.
	Prevention: Presidential Peace Policy. Law 294/1996.
	Rape: Criminal Code protects sexual freedom, integrity and education; extends concept of carnal knowledge and standards affecting protected people per International Human Rights. Law 360 (1998).
	Sexual and Reproductive Rights: International instruments and projects such as Promotion of Sexual and Reproductive Rights for Sexual Violence care; Presidential Commission on Human Rights.
	Post Cairo and Beijing Situation: Some new laws address commitments made at Cairo and Beijing.
Catholic Church	Legal Status: Its position is the defense of the right to live without violence. Prevention: Participates in projects.
Evangelical Protestants	Legal Status: Their preaching supports gender stereotypes that favor violence, though not in public.
Other Groups	Legal Status: N/A.
Political Parties	Legal Status: They do not come forward as parties although individual members do so.



CHILE

Leading Issues, Policies, Laws, Players and Positions*

ABORTION

Policy and legislation

Legal Status: Penalized, no exceptions. Until 1989, therapeutic abortion was permitted in cases when the mother's life was at risk. Regulated by Article 119 of the Health Code and abolished towards the end of the dictatorship. An extenuating factor is abortion "as a matter of honor".

Legislative Initiatives: Unchanged since criminalization of therapeutic abortion in 1989. The government has not attempted to legislate in this respect.

Health Care: Abortion-related discharges in public and private hospitals fell from 36,528 in 1990 to 29,546 in 2000, respectively.¹ There are no post-abortion care programs. Health workers are not trained for quality care. Complications are treated.²

Prevention and Sex Education: Prevention of unwanted pregnancies that might result in abortion has been carried out through sex education programs sponsored by governmental and local organizations and NGOs.

Post Beijing Situation: Government report on compliance with commitments in the Beijing Action Platform (April 2000) suggests that the government should implement intersectoral policies to prevent abortion, mainly through sex education and SERNAM.³

Political Parties

Legal Status: Statements made by the Unión Demócrata Independiente (UDI), Partido por la Democracia (PPD) and Socialist Party (PS).

Legislative Initiatives: In June 2002 right-wing legislators submit a bill increasing penalties for abortion. The bill allows for effective repentance, meaning judges can order community work -especially in pro-life organizations.⁴ Another bill (2003) drafted by a cross-section of legislators aims at reinstating therapeutic abortion in the Health Code.⁵

* By Ximena Carvallo y Alejandro Guajardo

¹ Schiappacasse, V.; Vidal, P.; Casas, L. Dides, C. Díaz, S., Chile: Situación de la salud y los derechos sexuales y reproductivos. ICMER, and CORSAPS. Santiago, Chile. September, 2003. Unpublished.

² Center for Reproductive Law and Policy (CRLP), Sexual and Reproductive Health and Rights Forum, "Encarceladas. Leyes contra el aborto en Chile. Un análisis desde los derechos humanos", Santiago, Chile, 1998.

³ Sexual and Reproductive Rights Bill. Santiago. August, 2000.

⁴ Motion sponsored by legislators Rodrigo Álvarez, Eugenio Bauer, Marcelo Forni, José Antonio Kast, Iván Moreira, Darío Paya, Felipe Salaberry, Gonzalo Uriarte, Ignacio Urrutia and Marcela Cubillos. Legislative Bulletin 2978-07.

⁵ Motion sponsored by legislators Adriana Muñoz, María Antonieta Saa, Carmen Ibáñez, Isabel Allende, Enrique Accorsi, Guido Girardi, Osvaldo Palma, Arturo Longton, Fulvio Rossi and Carlos Abel Jarpa. Legislative Bulletin 3197-11.

ABORTION

Social Movement

Legal Status: Each September 28 the Sexual and Reproductive Health and Rights Forum and LACWHN hold activities and initiatives calling for decriminalization of abortion.⁶

Legislative Initiatives: Initiatives include a round table on reinstatement of therapeutic abortion and a feminist committee to reinstate legal abortion.

Health Care: Health workers are required by law to report women who have undergone abortion. Patient confidentiality is not guaranteed.⁷ Health Ministry has not dealt with this situation or made recommendations to health workers. Progress has been made in terms of prescribing contraceptives to women who have aborted. The Women's Health Program (1997) requires hospitalization to be followed up by responsible parenthood training and referrals for primary-level check-ups⁸.

Post Beijing Situation: Citizen monitoring shows Chile not in full compliance with commitments on humane care of unsafe abortions.⁹

Catholic Church

Legal Status: Catholic leaders oppose abortion as part of their defense of life, which should be respected from conception.¹⁰ Catholic Church has been an active participant in this debate. Since abolition of therapeutic abortion in 1989 they have hounded aborting women all the way to court.¹¹

Legislative Initiatives: Catholicism advances an ethical rationality establishing the sanctity of human life and stress the duty of physicians to care for and protect the weakest members of society.¹²

Health Care: About reinstating therapeutic abortion, the Action and Family Group said: "All abortive laws have started the same way. They try to justify abortion due to the damage that a pregnancy could cause to the mother or due to some fetal pathology. Then, little by little, causes grow and finally turn the womb into a dangerous place for the child".¹³

Prevention and Sex Education: The Doctrinal Commission of the Conference of Catholic Bishops asserts that Christians must respect human life from conception as well as care and protect it from abuse, since an offense against life is an offense against the Creator and Lord.¹⁴

Post Beijing Situation: 2001: Chamber of Deputies approves an International Agreement that could allow abortion. The Action and Family Group says that CEDAW ratification would lead to "legitimizing the killing of innocent children in the name of human rights." In 2002 they opposed an agreement with the EU, claiming it intended to impose abortion and other measures included in the democratic clause.¹⁵

⁶ See www.forosalud.cl and www.reddesalud.org.

⁷ *Atenea*. Monitoring as Women's Civic Practice. Monitoring the ICPD Program for Action. Chile 1994-2003. Rumbo a Cairo + 10. Forum, LACWHN.

⁸ *Ibid*.

⁹ *Ibid*.

¹⁰ *Mensaje* 436, Jan/Feb 1995.

¹¹ Bravo, R.; Dides, C. and Pérez, S. Sexualidad, modernidad y políticas públicas en Chile, 2002. In: Grupo de Estudios Sociales (GES), 2002, op. cit.

¹² *Mensaje*, op. cit.

¹³ See www.accionfamilia.org.

¹⁴ Doctrinal Commission, Chilean Conference of Catholic Bishops. Un enfoque ético cristiano de la vida y la sexualidad, Santiago. 1990.

¹⁵ See www.accionfamilia.org/actualidad/acuerdos_ue.htm.

ABORTION

Evangelical Protestants; other churches

Legal Status: In general, they decry abortion; some believe it can and should be avoided.¹⁶ Other positions exist (i.e., the publication *Evangelio y Sociedad*): many situations can lead to abortion: mother's life at risk, rape. Mothers and families should be protected and spiritual care provided, whatever the decision. When severe fetal issues exist, interrupting pregnancy is a legitimate option. In case of solely social or economic reasons, most favor persuading mothers to carry pregnancies to term. Abortion should not be a birth control method.¹⁷ Jews and Moslems decry abortion but accept it if mother's life is in danger.¹⁸

Health Care: Evangelical Churches propose to teach people for a healthy and responsible sexuality¹⁹.

SEXUAL VIOLENCE

Policy and legislation

Legal Status: Violence against women is penalized in the Domestic Violence Act (1994). This law (No. 19325) as well as the Infant Violence Act (No. 19304) make issue a matter of public concern.²⁰ In 1998 Chile signs Convention of Belém do Pará. In 1999 a new law on sexual offenses is enacted, containing significant benefits for victims of sexual violence.²¹ No comprehensive sexual violence policies other than SERNAM's Domestic Violence Intervention Plan for 2001-2006.

Legislative Initiatives: On 30 August 2001 SERNAM submitted a bill to the Chamber of Deputies to modify the current law: to correct some problems in the reporting procedures, avoid delays in the notifications, access to a lawyer, distortion of the reconciliation and the way the sanctions are applied. Bill on sexual harassment in the working place has been discussed by the Congress since 1995.

Health care: SERNAM set up 17 care and prevention centers throughout the country and a women's shelter in Santiago, yet demand exceeds supply.²² In 2000 the Forensic Medicine Institute performed 4,459 forensic sexology examinations throughout the country. The Santiago branch only has information about reasons for examinations. Health workers have received no special training.²³

Prevention and Sex Education: Monitoring in 1994-2002 showed no comprehensive national policy on prevention, care and treatment of girls and boys victims of sexual violence. Whatever initiatives exist could benefit from an intersectoral approach.²⁴

Post Beijing Situation: Rape was redefined to include vaginal, anal and oral penetration. Statutory rape was also redefined and victim protection was made available. The Sexual Violence Act does not guarantee free legal defense for victims of sexual violence. Medical and psychological coverage remain insufficient²⁵.

¹⁶ Bravo, R. Opiniones de líderes y autoridades: Pecado y enfermedad. Macroecuménicas para la sexualidad. In: Grupo de Estudios Sociales (GES), 2002, op. cit.

¹⁷ *Iglesia y Sociedad*/No. 18 Jul/Sep 1993.

¹⁸ Canales, D; Isla, P. Documentos oficiales de las iglesias cristianas y el mundo macroecuménico. In: Grupo de Estudios Sociales (GES), 2002, op. cit.

¹⁹ *Pastoral Popular*, Year 47 No. 255, Nov/Dec 1996.

²⁰ Pérez M.S., Isla P, Cisterna, I. Manual psicosociojurídico de violencia intrafamiliar. CONSIL. Santiago, 2000.

²¹ Sexual and Reproductive Rights Bill. Santiago. August, 2000.

²² Letelier I., Rivera A. Fuerte demanda de atenciones en centros de violencia intrafamiliar. *La Tercera*, 14 January 2002.

²³ Sexual and Reproductive Rights Bill. Santiago. August, 2000.

²⁴ *Atenea*, op. cit.

²⁵ *Ibid.*

SEXUAL VIOLENCE

Political Parties	Legal Status: Discussion of Domestic Violence Bill in 1990-1994 revealed discord on causes, consequences and solutions. While the bill established discrimination as a cause and the protection of women as the purpose of the law, right-wing parties insisted that sexual violence is caused by degradation of Christian values and weakening of the family unit. Family issues prevailed over protection of women's human rights. ²⁶
	Health care: The first bill (1990) was an initiative of Socialist lawmakers backed by feminist NGOs.
Social Movement	<p>Legal Status: The Chilean Network Against Domestic and Sexual Violence²⁷ has advanced valuable ideas on policy review and victim care.</p> <p>Legislative Initiatives No comprehensive policy on prevention, care and treatment of girls and boys victims of sexual violence. Existing initiatives could benefit from an intersectoral approach.</p> <p>Health care: Training and Development Center NGO trains violence prevention instructors.</p> <p>Post Beijing Situation: Chile has yet to comply fully with Cairo and Beijing commitments on sexual violence against girls.²⁸</p>
Catholic Church	<p>Legal Status: Accepts government regulations since crimes against chastity are defined as lust. One is rape, meaning to force or attack the sexual intimacy of a person, violating the right to freedom and physical and moral integrity.²⁹</p> <p>Legislative Initiatives: As a divorce bill was debated, the Catholic Church disagreed with including domestic violence as grounds.³⁰</p>
Evangelical Protestants; other churches	<p>Health care: Historical Evangelicals Protestants conduct pastoral work on matters of domestic violence.³¹ Lutherans operate the Santiago-based Domestic Violence Orientation and Care Center, a shelter for women and families.³²</p> <p>Post Beijing Situation: Ecumenical groups and members of the Christian Confraternity of Churches in Chile adhered to the International Decade for a Culture of Peace and Non-violence promoted by the UN, the World Council of Churches and the Latin American Council of Churches (CLAI).³³</p>

²⁶ Bonan, C. Reflexividade, sexualidade e reprodução: Processos políticos no Brasil e no Chile. Rio de Janeiro:IFCS/UFRJ, 2002.

²⁷ Comprised of 42 governmental and NGO institutional members. See www.isis.cl.

²⁸ *Atenea*, op. cit.

²⁹ Catecismo de la Iglesia Católica. In: Anexo I, Documentos oficiales de iglesias cristianas y macroecuménicas.

³⁰ See docs.tercera.cl/especiales/2001/divorcio/datos/.

³¹ Isla, P; Canales, D. Reflexiones sobre las éticas alternativas. In: Grupo de Estudios Sociales (GES), 2002, op. cit.

³² See www.mujereschile.cl/especiales/.

³³ See Latin American Council of Churches (CLAI) www.clai.org.

SEX EDUCATION

Police and legislation	<p>Public Policies: Article 2 of the Education Act of 2000 states: “Pregnancy and motherhood are not an impediment to enter and stay in school. Schools shall render the assistance that may be required in this respect.”³⁴In 1992 the Education Ministry publishes “Towards a Sex education Policy to Improve the Quality of Education”. In 1993 it presents its “Policy on Sex Education” that avoids imposition of certain contents. In 1995, various studies and program proposals for Comprehensive Care of Adolescents in Reproductive Health and Education seek to contribute to better government decision-making and support. This is a cross-sectoral effort by SERNAM, MINEDUC and the Youth Institute, with UNFPA support. The result was the JOCAS initiative for secondary students. In 1999 a revised version of the JOCAS plan is published, incorporating insights from previous experience. 2003 Inter-sectoral Governmental Program. A Pilot Plan Towards Responsible Sexuality.</p> <hr/> <p>Health care: 1997Health Ministry Adolescent Health Program seeks to reduce teenage pregnancy, prevent STDs. It remained unfunded until 2000.³⁵ Women's Health Program (1997) sets unwanted teenage pregnancy prevention as a priority.³⁶ In 1999 the Health Ministry implements National Adolescent and Youth Health Policy. It calls for respecting self-determination in adolescents and youth and the right to informed consent, diversity, preventive protection, protection of personal integrity and sexual and reproductive health. In 2002 INJUV and MINSAL start “Young Afternoons”, a program offering special services for adolescents.³⁷</p> <hr/> <p>Prevention and Sex education: The MINEDUC Mobile-600 Program-to be implemented in Metro Santiago- intends to offer sex education to secondary students and orientation to parents. It “<i>will cover the needs of Chilean families</i>” with print materials on sex education.³⁸.</p> <hr/> <p>Post Beijing Situation: The commitment made by the Chilean government in Cairo 1994 and ratified in Beijing 1995 reads: “Guarantee thorough attention to the particular needs of adolescents in matters of education and services, so they can assume their sexuality in a positive way”.³⁹ (Paragraph 7.3).</p>
Political Parties	<p>Public Policies: In the JOCAS debate, right-wing parties fought government intervention in “<i>domains reserved to parents and families</i>”.⁴⁰</p>
Social Movement	<p>Public Policies: Two National Sex Education meetings were held; creation of the National Permanent Forum for the Promotion and Defense of Duties, Rights and Responsibilities in Matters of SEX EDUCATION. These brought together progressive groups, conservative Catholics and national (SERNAM, MINEDUC) and international organizations (UNESCO, UNICEF, Ford Foundation, CELADE).⁴¹</p> <p>Legislative Initiatives: Draft Sexual and Reproductive Rights Bill admits people's right to a comprehensive education for emotional and sexual life from childhood, enabling well-being, development and the exercise of free, informed sexuality.⁴² The bill also covers health care issues.</p>

³⁴ See www.sernam.gov.cl/noticias/.

³⁵ Sexual and Reproductive Rights Bill. Santiago, August, 2000.

³⁶ Ibid.

³⁷ See www.sexualidadjoven.cl.

³⁸ See www.conasida.cl/nota/pre0303/.

³⁹ *Atenea*, op. cit.

⁴⁰ Bonan, C. Quoting UDI Senator Carlos Bombal in an article published in the local press in 1996, p. 280.

⁴¹ Ibid.

⁴² Sexual and Reproductive Rights Bill. Santiago, August, 2000.

SEX EDUCATION

Social Movement	<p>Health care: Health care in the CEMERA University of Chile and APROFA.</p>
	<p>Prevention and Sex education: CIDE, EDUK, CEMERA, CEGECAL, APROFA, and ICMER work on sexual and reproductive rights issues since 1990. Initiatives such as the Catholic University's "Teen Star Program" ask teenagers to delay start of sex life.</p>
	<p>Post Beijing Situation: Chile has yet to fully comply with Cairo and Beijing commitments on teenage access to sexual and reproductive health information and services.⁴³</p>
Catholic Church	
	<p>Public Policies: Government JOCAS program launched in 1997. A controversy arose due to Church opinion of these encounters. In 1991 Cardinal Carlos Oviedo published a pastoral letter on Morals, Youth and Society, referring to the moral crisis affecting Chilean society. Bishop Cristián Caro contended that powerful first-world financial interests seeking to sell contraceptives were behind JOCAS. Bishop Antonio Moreno warned against Chile applying Beijing decisions on safe sex. Bishop Carlos Camus said he found sex education necessary in his diocese.⁴⁴</p>
	<p>Prevention and Sex education: A new requirement for JOCAS was consultation with parents to determine willingness to participate. They requested greater participation of church representatives or individuals trained in ethics and morals.⁴⁵ In 1995 the Pontifical Council for the Family led by Cardinal Alfonso López published in Rome "Human Sexuality: Truth and Meaning. Educational Orientation inside the Family."⁴⁶ In 1996 the Teachers Pastoral of the Catholic University of Chile conducts sex education workshops in Santiago.⁴⁷</p>
	<p>Post Beijing Situation: Catholic Church underwent dramatic change since the '90s, focusing on spiritual and sacramental matters and moral aspects, such as young people's sexuality.⁴⁸</p>
Evangelical Protestants; other churches	
	<p>Public Policies: In 1996 the Evangelical Development Service and the Evangelical Theological Community of Chile hold a workshop on the meaning of sex education. They advanced an Evangelical view on sex education in schools.</p>
	<p>Legal Status: Agree to government commitment to disseminate scientific information about reliable means to prevent the spread of STDs.⁴⁹</p>
	<p>Health care: During the '80s ecumenical NGOs and some Evangelical churches discussed sexuality from a popular education viewpoint: SEPADE,⁵⁰ EPES,⁵¹ SEDEC.⁵²</p>
	<p>Post Beijing Situation: Chilean ecumenical organizations review the Cairo Action Plan and released the "Sexual and Reproductive Rights for Youth" statement</p>

⁴³ *Atenea*, op. cit.

⁴⁴ *Pastoral Popular*, Year 47 No. 258 Oct/Nov 1997.

⁴⁵ *Pastoral Popular*, Year 47 No. 258 Oct/Nov 1997.

⁴⁶ *Mensaje* 414, 1996.

⁴⁷ *Mensaje* 455, 1996.

⁴⁸ Anexo I Documentos oficiales de iglesias cristianas y el mundo macroecuménico. Parte 5, iglesias evangélicas.

⁴⁹ *Pastoral Popular*, Year 47 No. 255, Nov/Dec 1996.

⁵⁰ Evangelical Development Service, through its Program of Evangelical Social Participation, Community Social Participation and Ethical-Social Reflection Encounters with youth, women and evangelical ministries.

⁵¹ Lutheran; produces educational materials on sexual issues for various evangelical groups, including Pentecostals.

⁵² Methodist, based in Concepción. Works on women's health and sexuality.

FERTILITY REGULATION

Policy and legislation	<p>Legal Status: The concept of “fertility regulation” is incorporated in 1990. Responsible Parenthood Rules and Regulations are enacted (1993).⁵³In December 2000 the Health Ministry modified rules on voluntary sterilization to allow women and men to undergo the procedure without special requisites.⁵⁴</p> <p>Legal Status of EC: In 2001 the courts reviewed authorization by the Public Health institute (ISP) to sell Postinal, a “day-after pill”. Although legal action against the ISP managed to kill Postinal, it failed to stop Postinor-2, an equivalent drug sold with a retained prescription.</p> <p>Health care: Fertility regulation drives are directed at women and are handled 99% by midwives.⁵⁵ Limited : IUD, Copper T 380, pills combined with condom use. Some services offer injectable contraceptives, with combined dosages (monthly, quarterly) and pure progesterone pills. CMs still unavailable at public health facilities or rape victim centers. When no physician is available to prescribe Postinor-2, the Yuzpe method is offered.</p> <p>Post Beijing Situation: In Cairo 1994 and Beijing 1995 it was agreed that voluntary sterilization is part of individual rights to regulate fertility. All research on fertility regulation products and Sexual and Reproductive Rights must consider accepted ethical and technical rules and the cultural conditions of biomedical research.⁵⁶There is no information that health services are using these criteria.</p>
Conservative groups	<p>Legal Status of EC: There is currently new legal action pending against the ISP and registration of Postinor-2, again jeopardizing the sale of this product and hindering individual rights.</p> <p>Prevention and Sex Education: A more liberal sector said EC is legitimate under certain circumstances: rape, unprotected sex. EC is deemed less serious than abortions caused by unwanted pregnancy.</p>
Partnerships between Government and Social Movement	<p>Legal Status: In 2002, ICMER, APROFA and the Health Ministry Women’s Program update family planning regulations.</p> <p>Prevention and Sex Education: NGOs and government form the Emergency Contraception Consortium.⁵⁷</p>

⁵³ Responsible Parenthood. Maternal and Perinatal Health Care Program, Personal Health Program, Ministry of Health, 1993.

⁵⁴ Per Resolution 2326 of 30 November 2000.

⁵⁵ Health Statistics and Information Department, Ministry of Health, 2001.

⁵⁶ Ibid.

⁵⁷ Members include APROFA, CEMERA, the Temuco Women’s Center, CORSAPS, Sexual and Reproductive Rights Forum, ICMER, Health Ministry Programs for Adolescents and Women, LACWHN and Vivo Positivo. 2002.

FERTILITY REGULATION

Social Movement	<p>Legal Status of EC: Organizations⁵⁸ working on Sexual and Reproductive Health and Rights⁵⁹ unsuccessfully applied to Court of Appeals for intervenor status. An appeal on constitutionality grounds was allowed by the Inter-American Court of Human Rights. In 2001 the Grand Masonic Lodge of Chile makes a statement.⁶⁰</p> <p>Health care: 1997: survey of potential EC users and practitioners who could provide information is conducted.⁶¹ Government reviews of EC use^{62,63} revealed that in most cases it wasn't being offered by health care providers who thought it illegal or not part of Ministry technical rules.</p> <p>Post Beijing Situation: Chile has yet to fully comply with sexual and reproductive health and rights commitments made in Cairo and ratified in Beijing.⁶⁴</p> <p>Prevention and Sex Education: Consortium members promote EC.ICMER sets up a protocol to prevent pregnancy and infection after rape, including new procedures for treatment of rape established by the Health Ministry.</p>
Catholic Church	<p>Legal Status: Although public policy can guide population growth, it cannot favor methods running counter to morals or replacing parental responsibility for the education of children.⁶⁵</p> <p>Legal Status of EC: Contraceptive use banned after Vatican II.⁶⁶</p> <p>Health care: Authorization to sell EC withdrawn in 2001 after strong opposition from pro-lifers and the Catholic leadership.</p> <p>Prevention and Sex education: Prevention is basically sexual abstinence in unmarried people.⁶⁷</p>
Evangelical Protestants; other churches	<p>Post Beijing Situation: Evangelical Churches meet in 1998. CLAI is interested in sexual and reproductive health issues and said they cannot be left out of international debate⁶⁸.</p>

⁵⁸ Valparaíso Women's Home, Women's Studies Center, La Morada Corporation, Women's Institute Foundation, Ideas Foundation, Movement for the Emancipation of Chilean Women, LACWHN, and Sol.

⁵⁹ APROFA, CORSAPS and ICMER.

⁶⁰ See www.revistaoccidente.cl/378/institucional.

⁶¹ ICMER and WHO. *Acceptability of EC in Three Latin American Countries*. Forthcoming, 2003.

⁶² *La Tercera*, 18 August 2002.

⁶³ Sexual and Reproductive Health and Rights Forum, 2002.

⁶⁴ *Atenea*, op. cit.

⁶⁵ Catecismo de la Iglesia Católica. In: Anexo I, Documentos oficiales de iglesias cristianas y mundo macroecuménico.

⁶⁶ D. Canales. *Reseña histórica de las construcciones normativas acerca del cuerpo y la sexualidad en el cristianismo y mundo macroecuménico*. In: Grupo de Estudios Sociales (GES), 2002, op. cit.

⁶⁷ See www.chileunido.cl/corrientes/docs_corrientes/.

⁶⁸ Población y salud reproductiva. In: Anexo I, Documentos oficiales de iglesias cristianas y el mundo macroecuménico. Part 5. Iglesias evangélicas.

HIV/AIDS

Policy and legislation	<p>Legal Status: HIV/AIDS Act enacted in December 2001. The law makes testing voluntary and confidential.⁶⁹</p> <hr/> <p>Health care: In 1990 the government sets up National AIDS Commission. Action focuses on budgetary and access to therapy issues. Currently there is full coverage in the public sector.⁷⁰ Extended Access to Drugs Campaign funded by UNAIDS.⁷¹</p> <hr/> <p>Prevention and Sex education: At first CONASIDA stressed the need for prevention and condom use.⁷² Government, NGOs and PLHIV groups implement the Global Fund project which includes training, campaigns, etc.</p> <hr/> <p>Post Beijing Situation: Government creates CONASIDA; moves toward compliance with international human rights and preventive education guidelines.⁷³ In Cairo and Beijing Chile adhered to the Action Plan and committed to prevent HIV/AIDS infection.⁷⁴</p>
Political Parties	<p>Legal Status: Senate approves the AIDS Act which promotes several benefits for PLHIV and prevention.⁷⁵</p> <hr/> <p>Health care : Political parties promote dignified care for PLHIV.⁷⁶</p> <hr/> <p>Prevention and Sex education: Division among conservative and progressive parties. The former believe Catholic values must play a role; the latter believe in promoting condom use.⁷⁷</p>
Social Movement	<p>Legislative Initiatives : PLHIV and gay groups fought for approval of the “AIDS Act” in 2000.⁷⁸ Sexual and Reproductive Rights Bill submitted to Congress; includes access to HIV/AIDS information, education, prevention and non-discrimination.</p> <hr/> <p>Health care: PLHIV groups help advance patient rights.⁷⁹</p> <hr/> <p>Prevention and Sex education: Some movements make efforts to include sex education in school plans. PLHIV movement offers training and talks.⁸⁰ Conservatives conduct campaigns and demonstrations against condom use.</p> <hr/> <p>Prevention and Sex education: Some social movement members demonstrate against non-compliance of international agreements.</p>

⁶⁹ See www.inalambrico.reuna.cl/fichas/planificaciones/virus_sida.htm.

⁷⁰ Sexual and Reproductive Rights Bill. Santiago, August, 2000.

⁷¹ Proyecto de Ley Marco sobre Derechos Sexuales y Reproductivo. Santiago, agosto, 2000.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ *Atenea*, op. cit.

⁷⁵ Law 19779, Santiago, December 4, 2001.

⁷⁶ Ibid.

⁷⁷ Print media review, 2001-2003. *El Mercurio*, *La Tercera*.

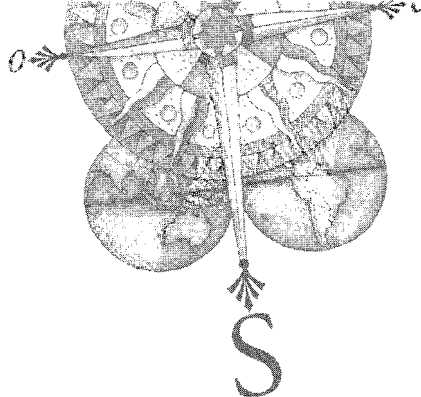
⁷⁸ Diez años de movimiento homosexual, 2002. MUNS.

⁷⁹ National PLHIV Coordinating Committee.

⁸⁰ Awareness and prevention drives by Vivo Positivo, Grupo Pro-Vida. Santiago, Chile.

HIV/AIDS

Catholic Church	Prevention and Sex education: Protective role, mainly for the terminally ill and boys and girls who have the disease. Promotes abstinence and fidelity; opposes condom use for prevention; silent on PLHIV.
	Post Beijing Situation: A majority openly opposes agreements signed by the government.
Evangelical Protestants; other churches	Prevention and Sex education: Ministers are trained in matters related to HIV/AIDS.



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