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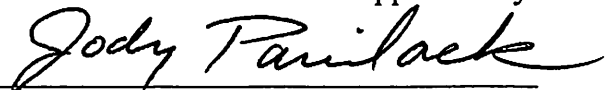
INSTITUTIONALIZED HYPOCRISY: DIVORCE, CULTURE,  
AND POLITICS IN CHILE, 1884-2004

by  
Amanda Faye Mitchell

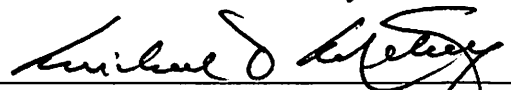
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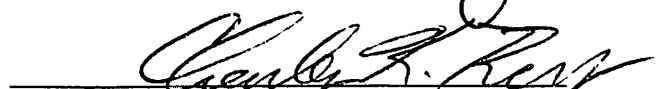
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## ABSTRACT

AMANDA FAYE MITCHELL: Institutionalized Hypocrisy: Divorce, Culture, and  
Politics in Chile, 1884-2004  
(Under the direction of Dr. Jody Pavilack)

Chile is a country of many contradictions, and these contradictions lead to a great chasm between the needs of the people and the way in which the government tries to provide for those needs. Many of the policies and laws are in line with the doctrines of the Catholic Church, and these policies play an interesting role in the social landscape of the country. They create an environment in which the general population does not live in a manner that corresponds to the way that the Church claims they do. Therefore, the law based on Catholic doctrine often creates a space that hinders rather than helps the people (both Catholics and non-Catholics). The purpose of this investigation is to identify this space and how exactly this institutionalized hypocrisy, particularly in relation to the absence of a divorce law, affects the Chilean population.

To achieve this purpose, I looked at Chile's Marriage Code and the ways that it affected Chilean society. Until March of 2004, Chile was one of the last three countries in the world to not permit divorce. In the twentieth century, there were twelve unsuccessful attempts to pass a bill that would legalize divorce, four of which transpired in the 1990s. Only by the thirteenth proposal did proponents of the divorce bill finally meet success. The Catholic Church's opposition remained strong, despite polling results,

which indicated that over 70% of Chileans supported the passage of the proposed law since the late 1990s.

This research was primarily Internet based due to the distant location of the country in question and the fact that, at the time the research was conducted, the debate over the divorce law had not yet been settled, and therefore there were not yet many studies completed regarding the issue. To analyze the effects of the lack of a divorce law, I first explained Chile's Marriage Code as it stood before March of 2004. I then outlined both sides of the debate, focusing on who supported and who opposed the proposed bill, the methods they used to support their position, and the reasons they took their chosen position. Finally, I examined certain statistical information pertaining to the actual state of the Chilean family, comparing that state with the image of the family put forth by the Church.

I found that the Church's idea of the family did not match the reality of the situation, and that in fact, for various reasons, the absence of a divorce law probably had adverse effects on the Chilean family. The conclusion of this research was that the passage of the divorce law will make positive changes in Chilean society and Chilean families.

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## 1. Introduction

Chile is a country of many contradictions. It is a conservative society in which the Catholic Church has a powerful influence, both in the political and the social sphere. Many politicians and the great majority of citizens are self-proclaimed Catholics (approximately 77% of the citizens polled claimed to be Catholic in 2003). However, within this supposedly conservative society centered around Catholic values exists a world that is completely contradictory to the one officially acknowledged.

Chilean society is one in which 56% of children born in 1999 were born out of wedlock, a higher rate than even liberal Sweden's 50%.<sup>1</sup> That is just one indicator that Chileans' behavior is not in line with the conservative image presented by the Catholic Church, which strongly focuses on the traditional family. While strolling down many streets of Santiago, one can observe many coffee shops with heavily tinted windows. These "coffee shops" are actually popular places for many businessmen to go for some *café con piernas*, or, "coffee with legs." The waitresses are young and attractive women who wear tight shirts with skirts that hardly reach their upper thighs.

There are many other cases like the *café con piernas* that seem completely incompatible with the conservative values. For example, a few years ago an actress lived in a glass house for several months in downtown Santiago. This project was partially funded by the State, a fact that only accentuates the strange duplicity in the nation. In a

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<sup>1</sup> Merike Helena Blofield, "The Politics of "Moral Sin": A study of abortion and divorce in Catholic Chile since 1990," (Santiago, Chile: FLASCO-Chile, 2001), p. 8.



country that until recently recognized conservative Catholic family ideals in the Civil Marriage Code, a woman living in a glass house could be seen in one of the capital's busiest areas showering every morning.

A more current case involves a custody battle over a couple's three daughters. The mother wants them to live with her, but the complication is that she is a lesbian living with a female partner. Courts at different levels have given either parent custody, and the case has been appealed all the way to the Supreme Court. The case has drawn a substantial amount of media attention, and many people hope that this attention will help break many of the stigma tied with homosexuality. This custody battle has run parallel to debates over such issues as the legalization of divorce, therapeutic abortion, and the right to use birth control. The vanguard issues that are at the heart of many current issues in Chilean culture completely contradict the conservative depiction of the nation that many different groups, particularly groups associated with the Catholic Church, usually choose to put forward.

The evident hypocrisy in many areas of Chilean society was pivotal in the debate over the legalization of divorce. Until March of 2004, Chile was one of the last three Western countries in the world without divorce. The Philippines and Malta were the other two. The duplicity of the nation stemmed from the fact that, for nearly a century, Chile's Civil Marriage Code, written under a government influenced by the Catholic Church, was the law under which Chileans in a modern, secular state lived their lives.

As demonstrated in the earlier examples of the duplicity in Chilean society, the people do not actually live in line with the teachings and belief system of the Catholic Church. Besides the fact that an old law dictated the nature of an institution as important

as marriage, hypocrisy lurked in the tactics used by opponents of divorce as well as their reasons. Ironically, the groups that combated the legalization of divorce the most vehemently had actually already been divorced from the reality of society. They painted a picture of Chilean society and culture that distorted reality.

The purpose of this research is to demonstrate why the passage of the new divorce law should be a step in remedying the institutionalized and internalized cultural hypocrisy that was intricately woven into the Civil Marriage Code of 1884. The Chilean marriage law finally addresses the problems in society by allowing divorce and is more in tune with the needs that derive from those problems. In order to demonstrate this, it is necessary to paint several pictures of Chilean society and then to determine which portrait most accurately depicts reality.

The research is divided into four main sections. The first section merely seeks to explain the functions of the old Marriage Code and how some of those functions became legal obstacles with loopholes that were exploited by many Chileans. The second section focuses on the supporters of the recently passed divorce law by outlining the history of different attempts to change the Code of 1884, finding who exactly was behind all of these attempts, why they wanted the law changed, and how they went about changing it. The third section focuses on opponents to the divorce law, first showing who was behind the force that fought against the passage of the law and their motivations and methods for doing so. Finally, a picture of the reality of Chilean society is given. This section particularly looks at the effects that the lack of divorce had on a modern society that no longer lived within the bounds of Catholic teachings.

In conducting this research, a combination of empirical data, media sources, governmental documents, scholarly research, and Catholic texts were referenced and analyzed. Documents and research done by SERNAM (Servicio Nacional de la Mujer—National Service for Women) were especially useful for finding information about the condition of women and children. A plethora of debates over the legalization of divorce circulated over the last several years, so newspaper articles and editorials proved to be extremely useful in reading both sides of the debate and especially in learning about who was behind the two main opposing voices. Some quantitative analysis is made, but the arguments are principally based on a qualitative analysis.

The tactics used to approach this data were not from an economic, historical, or political historical perspective, but rather they are based on a mixture of political, social, and cultural history. The information had to be approached with all of these factors in mind in order to capture the essence of the reality in contemporary Chilean society in the context of not having divorce. The basic premise made here is that in Chile civil society institutions and pop culture are intertwined.

## 2. The Civil Marriage Code

The Catholic Church and the Chilean State have had a complicated relationship throughout the nation's history. In fact, the nineteenth century was marked by battles over the question of how much influence the Church should have in the government. In 1857, the Conservative Party formed, creating a three party system with the Radicals at the farthest left and the Liberals in the center.<sup>2</sup> In turn, the Conservatives "championed the Church's central role in protecting that order through its control of the education system and its tutelage over the principle rights of passage, from birth to death."<sup>3</sup> Although the Liberals had a few successes in obtaining power during this period, any obvious attempts to secularize the government resulted in civil wars that ended with a victorious Conservative oligarchy. The Church's power in the State thus remained intact until the Constitution of 1925 formalized the separation of the two institutions.

Chile's National Congress passed the country's first Civil Marriage Code on January 10, 1884,<sup>4</sup> over forty years before the Church and State were officially separated. As the Code was not changed until March 12, 2004, Chileans in the twenty-first century in a modern, secular state were still living under a law from the nineteenth century before Chile had a separation of Church and State. The hypocrisy of the situation lies in the fact

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<sup>2</sup> Brian Loveman, *Chile: The legacy of Hispanic capitalism* (NY: Oxford UP, 1979), pp. 134, 181-84.

<sup>3</sup> Library of Congress Studies, "Religion in Chile: Churches and politics." *What you need to know about*, (Mar. 1994), [[http://atheism.about.com/library/world/AJ/bl\\_ChileChurchPolitics.htm](http://atheism.about.com/library/world/AJ/bl_ChileChurchPolitics.htm)] Accessed on 7 November 2003.

<sup>4</sup> Ley de Matrimonio Civil (Civil Marriage Code), passed by the National Congress of Chile, (Santiago, 10 Jan. 1884), [<http://colegioabogados.org/normas/leyes/matrimonio.htm>] Accessed on 12 Nov. 2003.

that Conservative politicians and Catholic officials and interest groups continued to fight until March of 2004 to protect a Code that was utterly inconsistent with the needs of contemporary Chilean society.

Before revealing any other parts of the Code, it must be clarified that the code stipulates that the couple does not need to adhere to the formalities of the ceremony ordained by their church in order for the union to be legally recognized. In other words, marriage in Chile is entirely under civil jurisdiction. That designation of marriage as a civil matter dates back to the nineteenth century when the Liberal and Radical parties, in an effort to take the power the Conservatives sought to give the Church, began to secularize the state and gave it jurisdiction over births, marriages, and the burial of the dead.<sup>5</sup> It of course ended in a Civil War in 1891, and the Conservative Party regained full power. Although the reformist parties attempted to make changes and did succeed in placing marriage within the civil rather than the religious jurisdiction, the rest of the Code still has the moral ring distinctive of legislation from that time.

Three clauses particularly highlighted the hypocrisy that was institutionalized in the nineteenth century and maintained for over one hundred years. The first of these examples is found in the section that names the conditions under which a person cannot marry. Some of the factors to make one ineligible for marriage are that the person in question is still married to a past spouse, is too young, or, for any reason, is unable to express verbally or on paper his or her consent to the marriage. The Code also states that if the person has committed adultery within the last five years then they may not marry at that time.<sup>6</sup>

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<sup>5</sup> Library of Congress Studies.

<sup>6</sup> Article 7, Civil Marriage Code.

The word “adultery” can be confusing because, according to many people’s definition of the word, if a person is not yet married, then it would seem impossible for him or her to commit adultery. The label “adulterer” is often limited to married people who have extramarital affairs.<sup>7</sup> However, the definition of adultery offered by the Vatican in the Catholic Church’s Catechism explains that a woman having an affair with a married man “is an adulteress, because she has drawn another’s husband to herself.”<sup>8</sup> A catechism is “an elementary book summarizing the principles of a Christian religion; written as questions and answers.”<sup>9</sup> It is possible to access the Catholic Catechism at the Vatican’s website, thereby accessing the Catholic Church’s official doctrine and giving credibility to the definition of adultery found there.

To summarize, according to the Catholic Church, an unmarried woman can commit adultery by having an affair with a married man.<sup>10</sup> If proof were presented and accepted that a person committed adultery within the last five years, then that person may not marry. While this could easily be a provision in a secular law, the fact is that at the time the Code was drafted and approved, the Chilean government was not disjointed from the Catholic Church. This is therefore every bit as much a religious provision as it is a secular one, and it is extremely hypocritical since the State secularized itself in 1925 but did not secularize basic laws, such as the Civil Marriage Code.

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<sup>7</sup> This statement is not based on any formal evidence, but is to clarify what people usually think of when they hear the word “adultery.” The reason I included this assertion is that, while discussing this point with people, they were confused because the Catholic definition did not match their own. This statement therefore is meant to identify the general definition of the word presented by U.S. society and is used to avoid readers’ confusion.

<sup>8</sup> *Catechism of the Catholic Church*. [http://www.vatican.va/archive/ENG0015/\\_INDEX.HTM](http://www.vatican.va/archive/ENG0015/_INDEX.HTM) Accessed on 14 Feb. 2004.

<sup>9</sup> Wordnet, (Princeton University, 1997), [<http://dictionary.reference.com/search?q=catechism>] Accessed on 14 Mar. 2004.

<sup>10</sup> The Catechism does not specifically claim that men are considered adulterers in the same way, but for the sake of avoiding a gender issue here, from now on I will say “person” or “people” instead of “woman” or “women” when referring to adultery in this case.

The second revealing sign of the institutionalized hypocrisy embedded in the Civil Marriage Code can be seen in the wording of the law. Until March of 2004, there existed only two legal ends to a Chilean marriage: death or annulment.<sup>11</sup> Since waiting to become a widow or widower is not the most appealing or efficient method, annulments were the most widely pursued way to escape the bonds of a failed marriage. As stated by Cardinal Joseph Ratzinger of the Vatican, “the Catholic Church does not recognize divorce, only annulment.”<sup>12</sup> The Code therefore does not recognize divorce either, only annulment. The difference between the two processes is that divorce ends a marriage while annulment erases it. If couples annul, it is as if their marriage never existed. It is imperative to note the parallel distinction that both the Vatican and the Chilean Civil Marriage Code make between divorce and annulment, for this distinction highlights the Catholic doctrine that was still encoded in contemporary and for the most part secularized Chile’s law.

In Chile, the nature and elusiveness of annulments has caused many problems for couples in lower income brackets. These problems must be addressed in order to demonstrate the exclusionary nature of the annulment system. Annulments were expensive and therefore unattainable for many couples in lower- and middle-income brackets. The petitioning couple had to hire a lawyer who could navigate the legal mazes and effectively manipulate the loopholes. These lawyers could only be hired for a large fee, at rates as high as 30 percent of the couple’s annual income.<sup>13</sup> It was not uncommon

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<sup>11</sup> “¿Cómo termina el matrimonio?” (How does marriage end?), SERNAM (Servicio Nacional de la Mujer. . .National Service for Women).  
[[http://www.sernam.gov.cl/infomujer/matrimonio/termino\\_matrimonio/01termino\\_matrim.htm](http://www.sernam.gov.cl/infomujer/matrimonio/termino_matrimonio/01termino_matrim.htm)]  
Accessed on 12 Oct. 2003.

<sup>12</sup> Nicole Winfield, “Are you Divorced or living with a new partner?” *iVillage.com*. (3 May, 2002),  
[<http://pages.ivillage.com/imhabba63/marriedcatholicpriest/id5.html>] Accessed on 7 Nov. 2003.

<sup>13</sup> Reese Elrich. “Where divorce is illegal, a push for the right to say ‘I don’t’” *iVillage.com*. (3 May ,

for the couple to pay several witnesses to testify that the couple did not live at the given address at the time of marriage, increasing the costs even more. As bluntly stated by Patricia Silva, chief of the government's Department of Women's Legal Reforms in 2002, "only people with money can get these church annulments."<sup>14</sup>

This financial exclusion sheds light on yet another hypocritical stance of the Church. The Church supported the former Civil Marriage Code, yet that Code excluded the majority of the population from enjoying the rights of other Chileans. The exclusion was purely based on money. The problem with this class exclusion is that the Church claimed to champion the rights of the poor in the debate over divorce, yet the law that already existed hurt the poor by its very nature. Neither honesty nor good reason were necessary in obtaining an annulment; only money that could buy a lawyer and witnesses willing to lie were needed.

It should be noted here that a form of legal separation<sup>15</sup> did exist, but that it did not dissolve a marriage. It could be temporary and last a maximum of five years, or it could be permanent, depending on the nature and reasons for the request. The causes for a permanent separation include adultery, repetitive verbal or physical abuse, conviction of either of the spouses of a crime, or, for a temporary separation, if one of the spouses leaves for a period of three years or forbids the other spouse to continue to live in the same house.<sup>16</sup> People in a legally separated marriage are not allowed to remarry, however,

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2002) [<http://pages.ivillage.com/imhabba63/marriedcatholicpriest/id5.html>] 7 Nov. 2003.

<sup>14</sup> *Ibid.*

<sup>15</sup> The actual word in the document is "divorce," but as it really refers to the process that most readers consider "legal separation," that is the term that will be used in order to avoid confusion.

<sup>16</sup> For a closer look at the causes for legal separation and how judges determine the length of the legal separation, see the fifth section, Articles 19 – 28 of the Civil Marriage Code.



even in the case of a permanent separation since the couple is still legally tied in the bonds of matrimony.

The third example of the law that demonstrates hypocrisy can be found in the outline of the technical steps that had to be taken to marry, and how people seeking annulment, as well as lawyers, judges, and the civil registrar, systematically abused the steps on a regular basis. The couple had to provide the following information at the time of the marriage: an address of either of the two partners, their first and both of their last names,<sup>17</sup> the names of the two necessary witnesses, and the confirmation that neither was legally prohibited from marrying for any reason. The process was simple enough.

In order to annul a marriage a couple had to meet two of several conditions. The first condition for annulment was that a couple must mutually petition for it. If only one party requested an annulment, then it could never be granted, a stipulation that left many abandoned spouses no legal recourse to end a marriage that had been over in the *de facto* sense for years.

The second condition was that the couple must prove that something went wrong in the ceremonial procedure previously outlined. One of the following errors had to be proven: that, at the time the ceremony was performed, one of the partners was not legally permitted to marry; that the couple was not married in the correct Civil Registry;<sup>18</sup> that the witnesses gave false identities or were later to be found incapable of identifying either of the members of the couple; that one of the spouses did not marry of his or her own free will; or that one of the spouses married using a false identity.<sup>19</sup> If any one of these items

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<sup>17</sup> In Chile as in much of Latin America, both the paternal and maternal last names are used.

<sup>18</sup> A couple must marry in the Civil Registry of the bride's town or municipality in order for the marriage to be legitimate.

<sup>19</sup> The requirements for annulment and the process can be found in Articles 29 – 36.

could be proven, the marriage “dissolved,” that is to say that the marriage never legally existed. The union was blotted from the records, and both members of the ex-couple could marry again.

The fact that marriages could only end because of a mistake in the technical information of the paperwork created a space for broken couples to fill with lies and well-paid lawyers and witnesses. Couples usually correctly filled out the paperwork at the time of marriage, so couples often resorted to using other claims, the most common of these being claims to having been married in the wrong registry office<sup>20</sup> or that the address provided at the time of marriage was incorrect, often times affirmed by a false witness.<sup>21</sup> Some witnesses even purposely misspelled their names in order that the couple might annul the marriage easily in the future.<sup>22</sup> No matter what the reason for petitioning for an annulment is, it is usually fabricated by the couple or their lawyer and involves dishonesty on the part of the couple, the lawyer, the witnesses, and the judge.

Part of the travesty of this common arrangement was that the couple could not disclose the true reason for their desire to separate, and until recently the law perpetuated this system of dishonesty. The grounds for legal separation in Chile included offenses such as domestic abuse and adultery, but these offenses were not considered grounds for terminating the marriage. The purpose of the recently ratified Marriage Code was to make marriages binding. Annulments were merely a statement that the marriage was never valid, and therefore never existed. Because couples living in perhaps abusive or

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<sup>20</sup> Jeffrey Cottrill, “Be careful what you wish for?” *Divorce Magazine*, (18 Aug. 2003), [<http://www.divorcemag.com/news/chiledivorce.shtml>] 12 Nov. 2003.

<sup>21</sup> Jone Johnson Lewis, “Chile – Divorce.” *Encyclopedia of Women’s History*. (Mar. 1994), [[http://womenhistory.about.com/library/ency/blwh\\_chile\\_divorce.htm](http://womenhistory.about.com/library/ency/blwh_chile_divorce.htm)] Accessed on 12 Sept. 2003.

<sup>22</sup> The Taipei Times. “Chileans divided over bill to legalize divorce.” *Taipei Times*. (Santiago, 30 Sept. 2003), p. 6. [<http://www.taipetimes.com/News/world/archives/2003/9/30/2003069853>] Accessed on 7 Nov. 2003.

broken relationships could not divorce, they were forced to seek an annulment, but only on formalistic grounds, such as a mistake in the original address.

One of the problems that arose from this system of legalized hypocrisy was that, since the system was based on lies, the nation had no official way of knowing why couples sought to delegitimize their marriages. There could have been patterns of problems among modern Chilean couples, but a problem that is not acknowledged cannot be solved. Another problem is that, since annulment declares that the marriage never legally existed, the rights of the people involved are left in limbo. Many questions of alimony, visitation rights, and other issues involving the parents and children of dissolved marriages hang in the air long after the dust from slick lawyers and dirty paperwork settles.<sup>23</sup>

The Chilean government has declared itself independent from the Catholic Church, yet the Civil Marriage Code of 1884, written under a government that was not divorced from the Church, went untouched for nearly eighty years after the separation occurred. This antiquated Code required that all Chileans, Catholic or not, adhere to it. The institutionalized hypocrisy stems from the fact that a Code dripping with Catholic values written in the nineteenth century was still applied to Chileans in the twenty-first century under a contemporary, secular government. The basic result of this state of affairs was that the law led many Chileans to a life in an indeterminate relationship status between marriage and divorce, between being honest and deceitful, between the law and manipulation of the law.

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<sup>23</sup> Eduardo Gallardo. "Law legalizing divorce still far away in Chile," *The Miami Herald*, (21 Oct. 2001). Found at <http://www.rose-hulman.edu/~delacova/chile/divorce-chile.htm> Accessed on 12 Sept. 2003.

### 3. Proponents of the Divorce Law

#### 3.1 An outline of the century-long struggle to legalize divorce

Because of the hypocritical nature of the current Civil Marriage Code, which did not allow divorce but did allow annulment, an intense struggle to change the law raged in Chile for over a century.<sup>24</sup> The first opponent to the exclusion of provisions for divorce in the Chilean Marriage Code was Manuel Novoa, a member of the Radical Party. In 1883, he proposed to Congress that divorce be included in the code, but his proposal only received two votes of support.<sup>25</sup>

Just over thirty years later, the idea of divorce was not met with much more acceptance in Chilean government. Between 1914 and 1934, the Radical Party made six more attempts to pass a divorce law, and all six failed.<sup>26</sup> There were no more endeavors to legalize the dissolution of marriage until 1964 when Ines Enriquez, the first woman elected to Chilean Congress and a member of the Radical Party,<sup>27</sup> made a two-part proposal. The first part recommended the addition of the option of permanent legal separation that would not end the marriage and was similar to the separation option included in the Marriage Code revised last March. The second suggestion was to legalize

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<sup>24</sup> See Appendix A

<sup>25</sup> Pia Rajevic, *El Libro Abierto del Amor y el Sexo en Chile. [The Open Book about Love and Sex in Chile.]* (Planeta: Santiago, 2000), p. 99.

<sup>26</sup> Ibid.

<sup>27</sup> Library of Congress of Chile, "Diputada Doña Inés Leonor Enríquez Frödden Último Período: 1965-1969," [<http://websinileg.bcn.cl/biografias/bio.asp?which=559>] Accessed on 19 Mar. 2004.

Inés Enríquez was a political economics professor before being elected to Congress in 1951 and becoming the first Chilean congresswoman. Her brother, Humberto Enríquez, was a senator. Her family political ties could have contributed to her election, as could the women's suffrage law being passed in 1949.

divorce in certain cases, even allowing the couple to remarry.<sup>28</sup> Enriquez's attempt failed just like the previous seven.

The Radicals made one more attempt to legalize divorce in 1968 before the political turmoil of the 1970s and 80s. The tension began when Salvador Allende of the leftist Popular Union was elected president and increased dramatically with the military coup of 1973. A seventeen-year military dictatorship headed by General Augusto Pinochet consumed the nation, paling any former importance the passage of a divorce law held.<sup>29</sup>

Since the dictatorship ended and democracy was restored in 1990, people in Chile have once again focused on the legalization of divorce as a major social issue. In fact, after 1990, there were five efforts to change the former Marriage Code. Four were rejected, but the fifth passed through Chile's Lower House of Congress in 1997 when Congresswoman Maria Antonieta Saa made what was to be the last proposal to legalize divorce.<sup>30</sup> A total of thirteen proposals were made in the twentieth century to revise the Civil Marriage Code so that it would include provisions for couples to divorce, and only one made it past even the first step of procedure for amending the law. This was an enormous victory for the supporters of a Chilean divorce law because it was farther than any of the previous twelve attempts had ever reached.

In August of 2003, after moving through red tape and facing indefinite delays, the successful bill finally reached the Senate, which voted with a 33 to 13 to "take up a

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<sup>28</sup> Pia Rajevic, p. 99.

<sup>29</sup> Ibid, p. 100.

<sup>30</sup> The Taipei Times. "Chileans divided over bill to legalize divorce." *Taipei Times*. (Santiago, 30 Sept. 2003), p. 6. [<http://www.taipetimes.com/News/world/archives/2003/9/30/2003069853>] Accessed on 7 Nov. 2003.

committee's recommendation for the bill,"<sup>31</sup> meaning that the assigned committee would discuss the possibility of even letting the bill be debated in the full Senate. It was in fact later debated by the Senate, and in January of 2004 it was passed, including some surprisingly liberal amendments.<sup>32</sup>

There still remained two steps in order for the divorce law to pass: it must be approved by the Chamber of Deputies and signed by President Ricardo Lagos. The only possible obstacle was the Chamber, as the president was a known advocate of the divorce law. On March 12, 2004, in a dramatic finish to the century old battle for divorce, the Chamber of Deputies ratified the bill 76 to 2, with 20 abstentions.<sup>33</sup> Reports claim that "applause erupted in Chile's lower house after the clause-by-clause vote."<sup>34</sup> Divorce was at last legalized.

### 3.2 Who wanted divorce to be legalized?

The length and tedium of the battle indicates that many people had to be working indefatigably in order to legalize divorce. The leading advocates were from the left and some from the center of the political parties. The traditionally center Christian Democratic Party (Partido Demócrata Cristiano—PDC) claimed 35% of the electorate and the spot as Chile's largest political party at the fall of the dictatorship. Significantly, the PDC was wary of siding with the Catholic Church on the issue of divorce right after the dictatorship ended, despite its alliance with the Church during Pinochet's rule.<sup>35</sup> The

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<sup>31</sup> Ibid.

<sup>32</sup> Jolyon Attwooll. "Senate Approves Surprisingly Liberal Divorce Law." *The Santiago Times*. (26 Jan. 2004), [[http://www.tcgnews.com/santiagotimes/index.php?nav=story&story\\_id=5489](http://www.tcgnews.com/santiagotimes/index.php?nav=story&story_id=5489)] Accessed on 20 Mar. 2004.

<sup>33</sup> Irene Caselli, "Divorce Legalized in Chile," *The Santiago Times*, (15 Mar. 2004).

<sup>34</sup> "Applause as Divorce Law Approved." *The Age Company*. (13 Mar. 2004), [<http://www.theage.com.au/articles/2004/03/23/1078594561005.html>] Accessed on 14 Mar. 2004.

<sup>35</sup> Federal Research Division. "The Parties of the Center." *Country Studies: Chile*. (Library of Congress, March 1994), [[http://lcweb2.loc.gov/cgi-bin/query/D?cstdy:3:.temp/~frd\\_T888](http://lcweb2.loc.gov/cgi-bin/query/D?cstdy:3:.temp/~frd_T888)] 20 Mar. 2004.

PDC's support of divorce would have been tremendous given the influence it had over the population as the nation's largest political party, yet in the end, they would not take a stand for either side. Its lack of decision on such a matter possibly cost advocates of a divorce law much time, just as, conversely, they could have benefited from the PDC's support because of the large percentage of the electorate that this party held.

Nonetheless, the party remained divided on the issue of divorce, and therefore often "preferred to keep the issue of divorce off the political agenda."<sup>36</sup>

Of the political parties on the left, the Radical Party has traditionally supported divorce's legalization, as demonstrated by the long list of Radicals who made various proposals in the first half of the twentieth century. Presently, the Socialist Party (Partido Socialista—PS) and the Party for Democracy (Partido por la Democracia—PPD) have united on the issue of divorce,<sup>37</sup> PPD leaders being especially eager to endorse social issues such as divorce and women's rights.<sup>38</sup> President Ricardo Lagos supported the passage of a divorce law, and even made it part of his victorious platform in the 1999 presidential election.<sup>39</sup>

The high ratio of women who were advocates of the divorce law is extremely important. Many of the groups that support it were women's groups, such as SERNAM (Servicio Nacional de la Mujer—National Service for Women), which was formed in 1991 by the Chilean government with the purpose of creating equal opportunities for men and women.<sup>40</sup> Also, individual women politicians, such as Maria Antonieta Saa and

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<sup>36</sup> Merike Helena Blofield, p. 50.

<sup>37</sup> *Ibid.*

<sup>38</sup> Federal Research Division, "The Parties of the Left," *Country Studies: Chile*, (Library of Congress, Mar. 1994), [[http://lcweb2.loc.gov/cgi-bin/query/D?cstdy:6:.temp/~frd\\_T888](http://lcweb2.loc.gov/cgi-bin/query/D?cstdy:6:.temp/~frd_T888)] Accessed on 20 Mar. 2004.

<sup>39</sup> Merike Helena Blofield, p. 50.

<sup>40</sup> SERNAM website [<http://www.sernam.gov.cl>]

Isabel Allende (PS), supported the legalization of divorce. In fact, at a website called MujeresChile, a SERNAM Internet project, a survey was recently taken of women who are running for Congress. Of the sixteen candidates interviewed, fifteen firmly stated that they would vote for the legalization of divorce, and the other simply refrained from making a statement.<sup>41</sup>

In addition to the various political groups and the women who supported divorce, there is a sector of people who consider themselves to be Catholic that supported the passage of the divorce law. This group of Catholics must exist in view of the consistent statistics from the polls. According to those figures, 77% of the population declare themselves to be Catholic, and 70% of the population was in favor of the passage of a divorce law in 2003.<sup>42</sup> While not every person who is Catholic supported a divorce law and not every person who was in favor of divorce is Catholic, there was a clear overlap in the self-proclaimed Catholic Chileans and those who supported a divorce law.

U.S. researcher Merike Helena Blofield deems this group of Catholics ‘liberal Catholics.’ She argues that while they hold the general Catholic beliefs and doctrines as truth, they think that “the political realm should, in principle, be autonomous and that the legislators—Catholic and non-Catholic alike—should have the right to exercise

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<sup>41</sup> Mujeres Chile, “Sólo 15 candidatas al Parlamento respondieron al llamado de MujeresChile,” *Mujeres al Parlamento*, [[http://www.mujireshile.cl/especiales/parlamentarias2001/de\\_perfil.php?opc=15](http://www.mujireshile.cl/especiales/parlamentarias2001/de_perfil.php?opc=15)] Accessed on 21 Mar. 2004.

<sup>42</sup> Kevin G. Hall, “Chile Considers Allowing Divorce,” *Knight Ridder Newspapers*, (8 Sept. 2003), <http://www.montereyherald.com/mld/montereyherald/news/world/6723422.htm?template=>. Accessed on 12 Sept. 2003.

Not all of the polls claim the same percentage of people is Catholic. An article written in 2004 by Eduardo Gallardo entitled “Chile Legalizes Divorce over Opposition” states that 87% of the population is Catholic. This discrepancy could indicate that either the polls have a large margin for error, or, since there is a two year time lapse between the first and second statistic, that there were fewer self-declared Catholics in 2003 than there were in 2001. Neither source indicates where they found the percentage.

Eduardo Gallardo, “Chile Legalizes Divorce over Opposition,” *The Cincinnati Post*, (Cincinnati, 8 May 2004), [[customwire.ap.org/dynamic/stories/C/CHILE\\_DIVORCE?SITE=OHCIP&SECTION=HOME](http://customwire.ap.org/dynamic/stories/C/CHILE_DIVORCE?SITE=OHCIP&SECTION=HOME)] Accessed on 19 May 2004.



individual conscience when they so choose.”<sup>43</sup> These Catholics are important additions to the group of people who support the divorce law because they serve as links between society and the Church. Liberal Catholics are examples of people who believe Catholicism’s teachings about the way the world should be and the way people should lead their lives, but simultaneously recognize the actual state of society and the need for laws that can resolve the discrepancy between the two conflicting realms.

All of the people from the numerous backgrounds, including different political and religious backgrounds, represent the 70% of Chileans who claimed to be in favor of the passage of the divorce law for the last several years, until its legalization in March of 2004.<sup>44</sup> The reported percentage of Chileans has changed over the years. For example, the 1990 CEP-Adimark survey confirmed that 55.6 percent of the interviewees were in favor of legalizing divorce.<sup>45</sup> Other findings of that survey in relation to public opinion in regards to the legalization of divorce can be found in Table 1.<sup>46</sup>

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<sup>43</sup> Merike Helena Blofield, p. 43

<sup>44</sup> This statistic is found in numerous sources, too many to cite here, but to name three: Larry Rohter, “Chile Inches Towards a Law that would make Divorce Legal,” *New York Times*, (29 Sept. 2003).

Mark Mulligan, “Chile May Say ‘I do’ to Laws that Loosen the Bonds of Wedlock,” *The Financial Times Limited*, (London: Financial Times, 21 Oct. 2003).

“Controversial TV Campaign of the Chilean Church Against Divorce,” *Independent Perspective*, (Clarín, 6 Oct, 2003), [[http://www.riorevuelto.org/news/ipmail\\_59\\_1.html](http://www.riorevuelto.org/news/ipmail_59_1.html)] Accessed on 7 Nov. 2003.

None of the sources cite where it obtained the information that 70% of the population claim to be in favor of divorce’s legalization.

<sup>45</sup> Jone Johnson Lewis.

<sup>46</sup> Federal Research Division, Country studies, Chile, (Library of Congress, 1990), [[http://lcweb2.loc.gov/frd/cs/chile/cl\\_appen.html](http://lcweb2.loc.gov/frd/cs/chile/cl_appen.html)] Accessed on 20 Mar. 2004.

Source: Based on information from Centro de Estudios Públicos, “Estudio social de opinión pública, diciembre 1990,” *Documento de trabajo* [Santiago], No. 151, February 1991, 61; and Arturo Fontaine Talavera and Herald Beyer, “Retrato del movimiento evangélico a la luz de las encuestas de opinión pública,” *Estudios Públicos* [Santiago], No. 44, Spring 1991, 95.

**Table 1. Opinions Regarding the Legalization of Divorce, December 1990\***

**(In percentages agreeing or disagreeing with the follow statement: "In your opinion, should Chile have a law permitting divorce?")**

Sector	Yes	No
Males	59.2	36.9
Females	52.8	44.1
Ages 18 to 34	64.1	32.3
Ages 35 to 54	50.7	44.8
Age 55 or more	43.8	54.9
High socioeconomic status	70.1	15.5
Middle socioeconomic status	55.8	41.7
Low socioeconomic status	52.1	45.4
All Catholics	54.6	41.1
All Protestants	47.2	51.0
Practicing Catholics	39.5	57.1
Practicing Protestants	35.5	62.9
CHILE	55.6	40.9

\* Poll conducted by Centro de Estudios Públicos and Adimark. Percentages do not add to 100.0 because remainder had no opinion.

This information is useful to break down the parts of society that did or did not support the legalization of divorce in 1990. Note that in this year, a higher percentage of men supported divorce than women, of high socioeconomic status than of middle or low, and of Catholics than of Protestants. This is important because now women are seen as divorce's leading advocates, and people from high socioeconomic status and Catholics publicly denounce its legalization. Other sources, first in May of 2002 and later in October of 2003, have reported that 80% of the population favored the legalization of divorce.<sup>47</sup>

<sup>47</sup> 1) "Polls Show Majority in Chile Favour Abortion, Divorce," *LifeSite Daily News*, (27 May 2002), [<http://www.lifesite.net/ldn/2002/may/02052703.html>] Accessed on 7 Nov. 2003.

In sum, polls have consistently indicated over the past decade that the majority of Chileans were in favor of the passage of a divorce law. Included in this majority are several left and center political groups, the president, some “liberal” Catholics, and many women. The overwhelming support of such a law indicates recognition by certain sectors of the population of the need for a divorce law. The diversity of the supporters could be a sign of a real societal need for a law legalizing divorce rather than a desire of a few based on personal beliefs.

### **3.3 The motivations for fighting for legalized divorce**

The people who for so many years tenaciously fought for the legalization of divorce were not necessarily a group before the struggle; rather, they became a group because of the cause. Whether or not this made them stronger is not for this study to determine. The point is that something about these people served them in getting the first major change in Chile’s Civil Marriage Code, 1884 passed. An examination of their motivations is necessary to understand the driving force behind their long push for legalized divorce.

The purpose of this section is not to determine that proponents of the divorce law have an accurate image of society. At the moment it is only appropriate to communicate their reasons for wanting divorce to be legalized, as they expressed them, and the picture of reality that they promoted. The issue of who was right and who was wrong in this epic battle for divorce will be settled later.

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This article does indicate the source of the poll. It “was conducted by the Latin American College of Social Sciences (FLASCO) Oct. 13-25 among 40,000 people drawn from 29 cities, has a 4.5% margin of error.”  
2) Agence France-Presse (via Clarinet), “Catholic Church in Chile Deeply Divided Over Proposed Divorce Law,” *ClariNews*, [[http://quickstart.clari.net/qs\\_se/webnews/wed/dp/Qchile-religion.RGPK\\_DO2.html](http://quickstart.clari.net/qs_se/webnews/wed/dp/Qchile-religion.RGPK_DO2.html)] Accessed on 8 Feb. 2004.

This article does not indicate the source of its polls, but it is significant in that it claims that 10% more Chileans supported the passage of a divorce law than other articles published at the same time.

Perhaps the primary cause for the reformists' recent victory is that they not only believed in the cause for which they struggled, but they also had concrete circumstances from which they could draw their perseverance. Just as in war, maybe they won because they had something real to fight for, something substantial, and not just an abstract ideal or fear. The reformists battled against already existing circumstances in Chilean society, while the Catholic hierarchy and other opponents to the law fought for what their ideal society should be like and in reaction to their fear of what Chilean society might be like if divorce were to be legalized.

As previously observed, many supporters of the divorce law are women. Many can even be described as feminists. 'Feminism,' as defined by the Merriam-Webster Online Dictionary, is "the theory of the political, economic, and social equality of the sexes."<sup>48</sup> This definition is perhaps accurate, but also rather dispassionate. When asked in an interview conducted by MujeresChile about what her definition of a feminist is, Congresswoman Saa replied, "A brave woman who is conscious of her dignity, and who not only fights to recuperate her own [dignity] but also that of all women."<sup>49</sup> Her idea of feminism embodies the unselfish spirit of the movement towards a greater awareness of women's situation in a city, a country, or in the world.

In the Chilean context, this idea of an awaking female consciousness holds great importance because of the patriarchic nature of the country. In Congresswoman Saa's words, "Chile is a very macho country, very patriarchal. Many men think women are

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<sup>48</sup> Merriam-Webster Online Dictionary, (2004), [<http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=feminist>]. Accessed on 21 Mar. 2003.

<sup>49</sup> "Mujeres al Parlamento: María Antonieta Saa (PPD)," *MujeresChile*, [<http://www.mujereschile.cl/especiales/parlamentarias2001/articulos.php?articulo=671&area=perfil&opc=15>] Accessed on 21 Mar. 2004.

"Una mujer valiente, que está conciente de su dignidad, que no sólo lucha por recuperar la de ella sino la de todas las demás." The original quote.

their property.”<sup>50</sup> The version of the Civil Marriage Code that was recently amended was the embodiment of this ‘machismo’ that oppresses women. Thus, the lack of divorce is often pinpointed as the cause for many problems that women and children have, and therefore attracts many female enemies.

The old law made it extremely difficult for a woman to manage her assets or obtain credit within marriage. Unless a prenuptial agreement were made, an option only available since the mid-1990s, the husband could own all joint property, including any property that belonged to his wife. All of her property could be transferred to him without her authorization.<sup>51</sup> Despite the fact that it was possible to prevent this transfer, it was difficult to do. As late as September of 2003 approximately 70% of marriages did not have prenuptials, “giving the men legal rights to administer their wives’ estates and money.”<sup>52</sup> The unequal property rights in marriage served as one of the main reasons for proponents of the divorce law to keep fighting.

There were yet more discriminatory policies under the former law. A woman could not enroll her children in some Catholic schools without her husband’s signature, and when she died, if indeed her husband did not choose to confiscate her property he would have been allowed to do, half of her estate would automatically go to him.<sup>53</sup> These provisions did not consider whether or not the husband and wife were still living together as man and wife, or even if they had been separated even under the law for years. In

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<sup>50</sup> Reese Elrich, “Untying Chile’s Marriage Knot,” *The Christian Science Monitor*, (10 Apr. 2002), [<http://www.csmonitor.com/2002/0410/p07s01-woam.htm>] Accessed on 9 Sept. 2003.

<sup>51</sup> Maria Josefina Bilbao, “Chile ending ‘Gender Order’ based on exclusion, violence against women, women’s anti-discrimination committee told,” *Women’s Anti-discrimination Committee*, (Santiago, 22 June 1999), [<http://www.un.org/News/Press/docs/1999/19990622.wom1144.html>] Accessed on 7 Nov. 2003.

<sup>52</sup> Kevin G. Hall.

<sup>53</sup> Reese Elrich. “Where divorce is illegal, a push for the right to say ‘I don’t.’” *iVillage.com*. May 3, 2002. Found at <http://pages.ivillage.com/imhabba63/marriedcatholicpriest/id5.html> on November 7, 2003.

marriage, a woman simply had to cope with the fact that she would lose many of her property rights as well as the ability to fully manage her own and her children's lives.

In addition to property rights, women also sacrificed the rights to their own body when entering into marriage.<sup>54</sup> Formally a woman loses some of her rights because she cannot legally receive a hysterectomy if she has not already had four children and has her husband's consent.<sup>55</sup> For obvious reasons this law discriminates against women. The law informally outlines a woman's role in society: she is to have children and obey her husband. This law even discriminates against women who are not married. Since they have no husband, they cannot obtain his signature, and can therefore not legally be sterilized.

Although the sterilization law is not part of the Marriage Code, it did pose a problem for proponents of the law. Often when men left their wives, they could not be located later. In that case, the woman was unable to obtain his consent, and therefore did not have the right to choose what happens to her own body. There are many reasons that a woman may not be able to receive her husband's signature for the sterilization procedure, but not having divorce aggravated the situation. A man with whom the woman did not live but from whom she could not legally divorce herself had the legal rights to her reproductive system.

Informally, a large number of women lost the rights to their own body through abuse. According to SERNAM, in 1997, there were approximately 61,000 cases of domestic violence, and between the years 1991 and 1999, 23% of Chilean women had

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<sup>54</sup> Note: This law is still in effect.

<sup>55</sup> CEDAW, "Concluding observations, Chile," (Statements from meetings on 22 June 1999), [<http://www.umn.edu/humanrts/cedaw/chile1999.html>] Accessed on 7 Nov. 2003.

the course of a century. The legitimization of supporters' stance of the divorce law through organization and external support combined with their determination to carry them to the recent victory in Congress.

The National Women's Service (Servicio Nacional de la Mujer—SERNAM) was established in 1991 with the mission "to collaborate with the executive branch in studying and proposing plans and measures to ensure that women enjoy equal rights."<sup>59</sup> The establishment of this organization helped the women who fought for the legalization of divorce because they were able to have some influence in the government, crucial to changing policies. SERNAM did much research and work towards the goal of changing the Civil Marriage Code. For this reason, its establishment was a maneuver that was conducive to the recent victory.

CEDAW, the Convention on the Elimination of Discrimination Against Women, has been particularly helpful in reformists' battle to legalize divorce as it has offered justification for their cause. Among other accomplishments, since Chile's signing the Convention, SERNAM was established (1991), a Domestic Violence Act was passed (1994), and the Equal Opportunity Plan for Women was implemented (1994-1999).<sup>60</sup> One of the principle concerns of the committee for CEDAW over the last decade was that divorce was not legal in Chile. Numerous times, CEDAW reports condemned the lack of divorce as "seriously discriminatory of women" and recommended that:

. . . the Government introduce and support vigorously legislation which permits divorce, allows women to remarry after divorce, and grants women the same

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<sup>59</sup> Maria Josefina Bilbao, "Chile ending 'Gender Order' based on exclusion, violence against women, women's anti-discrimination committee told," *Women's Anti-discrimination Committee*, (Santiago, 22 June 1999), [<http://www.un.org/News/Press/docs/1999/19990622.wom1144.html>] Accessed on 7 Nov. 2003.

<sup>60</sup> Human Rights Committee, "Chile: Reports to treaty bodies," (The UN Human Rights System: 1999), [<http://www.hri.ca/fortherecord1999/vol4/chiletb.htm>] Accessed on 7 Nov. 2003.

rights to administer property during marriage and equal rights to property on divorce. It also recommends that women be granted the right to initiate divorce on the same terms as men.<sup>61</sup>

The international recognition of the need for divorce in Chile gave reformists credibility. CEDAW asserts that the purpose of divorce is not to destroy the family but rather to help women achieve equality and alleviate a discriminatory situation in the country. Furthermore, since reformists often did not have enough funds or organization to research the adverse effects that not having divorce had on society,<sup>62</sup> the CEDAW committee's dedication to assessing the actual situation in the country for the purpose of eliminating gender discrimination helped proponents of the divorce law to craft their arguments and bolster their motivation to persist for such a long period of time.

The second tactic, perseverance, was the most important factor in the proponents' eventual success in legalizing divorce. As the historical outline<sup>63</sup> of the original drafting of the divorce law and the attempts to change it since demonstrates, supporters of the law worked to change the 1884 Marriage Code for over a century to no avail until March 12, 2004. They had concrete reasons to struggle that were visible in many facets of society and international backing from CEDAW that perhaps provided the fuel and energy necessary for the last push in the fight. With so much support and so many reasons to promote the legalization of divorce, reformists needed only to persevere in order to achieve their long-term goal.

Collectively, supporters of the divorce law fought for its passage for over a century. The different groups over the century did not meet any success until the

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<sup>61</sup> "Committee on the Elimination of Discrimination Against Women, Concluding Observations:Chile," (Human Rights Library: U of Minnesota, 1999), [<http://www1.umn.edu/humanrts/cedaw/chile1999.html>] Accessed on 7 Nov. 2003.

<sup>62</sup> Merike Helena Blofield, p. 30.

<sup>63</sup> See Appendix A.



thirteenth proposal, yet they persevered in the struggle. The majority of the Chilean population was in favor of the passage of a divorce law for at least the last decade, and many fought in order to make this happen. The following section offers an explanation of why, after so much time and so many proposals, a law drafted in the nineteenth century under a State that was not yet separate from the Catholic Church was not changed, despite the fact that approximately 70% of the population supported a change for at least the last decade.

#### 4. Opponents to the Divorce Law

*This was the last gasp of an elite which is trying to impose traditional society on a country which is changing. I think the Church did itself a great disservice.*

*--Marta Lagos, director of MORI polling group for Chile, Oct. 2003<sup>64</sup>*

Logically, the divorce law should have passed through the legislative process without problems. The fact is, though, that many Chilean politicians, religious officials, and citizens did not welcome the law and fought with perhaps even more tenacity than did the reformists. The key to understanding the hostility towards what seems to be an obviously needed law might be found in a series of television commercials launched in a campaign against the legalization of divorce around late September and early October of 2003. These commercials prove to be an extremely relevant example of media manipulation by the conservative opponents of the divorce law.

First of all, three of Chile's five national television stations aired these anti-divorce advertisements for free.<sup>65</sup> The fact that the majority of the television stations played the commercials without charging the sponsors reveals a certain amount of media support for the anti-divorce campaign and possibly for the people and groups behind it. Because of the cooperation of the three stations, the propaganda put forth against the passage of a divorce law was widely available to people throughout the entire country. It was not established through any polls or studies whether or not the commercials had any

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<sup>64</sup> Mark Mulligan, "Chile May Say 'I do' to Laws that Loosen the Bonds of Wedlock," *The Financial Times Limited*, (London: Financial Times, 21 Oct. 2003), p. 4.

<sup>65</sup> Eduardo Gallardo. "Divorce, Chilean Style: Church makes sure it won't be so easy." *The News Tribune*. (Tacoma, WA: October 10, 2003), [<http://www.tribnet.com/news/story/4126777p4141782c.html>] Accessed on 7 Nov. 2004.

definite effects on the Chilean public's opinion of the debated divorce law, but they most likely claimed some sort of influence on people. No advertisements presenting the other side of the argument have been reported, probably making the impact that the commercials against the legalization of divorce even more powerful.

The content of the anti-divorce advertisements was potent. As reported by Uruguayan writer Eduardo Gallardo, "five times a day, a sonorous male voice broadcasts an ominous warning: A divorce law will push children of divorced couples to drugs and booze, school dropout rates and domestic violence will climb, family incomes will plunge. 'Chile wants a united family. Let's not divide it,' the announcer says."<sup>66</sup> Several statistics from the United States were provided as well with the intention of illustrating the adverse affect that the legalization of divorce would have on the Chilean population. One example of the U.S. statistics put forward is that "more than a million children each year undergo the trauma of seeing their parents obtain a divorce."<sup>67</sup> These children would of course be the ones to resort to using "drugs and booze." The reasoning was that, if divorce is legalized, Chilean families would fall apart, society would crumble, and the numbers from the U.S. were used to back up that claim.

The power available to the sponsors of the commercials and the strength of their language and statistics illuminates some of the reasons that proponents of the divorce law had thus far not been successful at getting it passed. Not only did the commercials most likely affect public opinion, but they also distorted lawmakers' idea of what the public wants. If they only received information about why divorce is negative, there are two obvious conclusions to be drawn: first, that divorce would have an overall negative

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<sup>66</sup> *Ibid.*

<sup>67</sup> "Founder and education in the teachings of the Founder of Opus Dei," *Opus Dei. Romana Bulletin*, (Dec. 2002), [<http://en.romana.org/art/35/4.2/5>] Accessed on 7 Nov. 2003.

effect on society, and second, that more people were against its legalization than in favor of it since there were not enough major campaigns from supporters of legalized divorce to indicate otherwise.

Most people seemed to simply give the Catholic Church credit for these commercials since the Church was a vehement opponent to divorce. This can be attributed to the fact that many of the newspaper articles written at the time did say that the Church was behind them. Further supporting this assumption, Cardinal Francisco Javier Errazuriz personally made a public apology for the accusations against children of divorced parents, as they “may have made some children of separated couples feel bad.” He did this in response to a public outcry against the commercials. Despite the apology, though, he clarified that only the “statistical portion of the campaign” would be removed, and that the rest, targeted towards influencing the Chilean Congress in the midst of the debate against divorce, would remain.<sup>68</sup>

The commercials themselves and the rest of the anti-divorce campaign seem to assume that Chilean families match a certain ideal image presented by the Church. In fact, as will be later discussed, the actual state of the Chilean family institution must be far removed from the picture put forth by the commercials. For now, this can be inferred for two reasons. First, many people were offended by their content, prompting Cardinal Errazuriz’s apology. The apology represents perhaps a glimpse of recognition by the Church of the actual world in which Chileans live and the condition of the family. Second, two of the five stations, Televisora Nacional (TVN) and Chilevision, did refuse

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<sup>68</sup> “Til the Divorce Law Becomes Legal,” *Divorce Blog*, (7 Oct. 2003), [<http://www.ncdivorce.com/blog/2003/10/07.html>] Accessed on 7 Nov. 2003.

to air the commercials because “they represent a view that is not universally supported.”<sup>69</sup>

The television stations recognized that the advertisements were not representative of Chilean society and were thus not “universally supported.” Cardinal Errazuriz’s insistence to continue to try to affect the Congress’ stance reveals a certain disregard for the Chilean public’s voiced desire; it seems that the Church, under the Cardinal’s leadership, is willing to disregard public opinion in order to promote Catholic interests.

The Catholic Church took the brunt of the blame for the commercials and even accepted the responsibility when Cardinal Errazuriz apologized. The Chilean public also seemed to be willing to accept the Church as the promoter of the advertisements. This confusion was perpetuated by the newspapers, which seemed to blame the Catholic Church’s hierarchy. Eduardo Gallardo even reported that Reverend Jaime Fernandez, head of the Family Vicariate of Santiago, was the “architect of the TV campaign.”<sup>70</sup> Amidst the confusion of the source of the commercials, *La Tercera*, a Chilean newspaper, offered a different account. The information it provided was based on a meeting held by the Bishops Conferences Press Office around October 8, 2003. The participants, mainly lay people, priests, and communications experts, all agreed that the advertisements should be taken off the air, and even disclosed the name of the person largely responsible for the campaign. His name is Reverend Juan Ignacio Gonzalez, one of Cardinal Errazuriz’s advisors, and a member of Opus Dei.<sup>71</sup>

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<sup>69</sup> “Chile: TV Networks Reject Anti-Divorce Ads,” *Knight Center for Journalism in the Americas*, (Austin: U of Texas, 2 Oct. 2003), [<http://knightcenter.utexas.edu/newsandarticles.php?page=1002>] Accessed on 7 Nov. 2003.

<sup>70</sup> Eduardo Gallardo, “Chilean Catholic Church Against Divorce.” *The Guardian Unlimited*. 9 October 2003. Found on 7 November 2003 at <http://www.guardian.co.uk/worldlatest/story/0,1280,-3244737,00.html>.

<sup>71</sup> “Government calls on senate to step up debate on divorce law,” *Worldwide faith news*, (8 Oct. 2003), [<http://www.wfn.org/2003/10/msg00227.html>] Accessed on 8 Feb. 2004.

The fact that the Church took the blame for the offensive commercials even though it was not directly responsible for them uncovers the hidden intricacies of the relationships between the Catholic Church and its supporters. These intricacies in turn reveal the identities of the true opponents to the divorce law. Understanding who was behind the opposition to the divorce law is imperative to understanding another aspect of the hypocrisy of the perpetuation of the Civil Marriage Code of 1884.

#### **4.1 Who was behind the opposing forces?**

The Catholic Church's weight in the battle to preserve the former Civil Marriage Code was undeniable, from the original drafting of the Code, to the blocking of any amendments that would allow for divorce over the last century, to the recent fight against the passage of the new law. The Church fought to preserve its own doctrines in the law. However, the meeting uncovered by *La Tercera* betrayed the publicly united front of the Catholic Church and its members that is so willingly offered. Jorge Morales, one of the Church's most outspoken lawyers, and other spokespeople for the Church maintain that Catholics are united on the issue of divorce. The reality is, however, that the Catholic Church does not represent a solid block of opinions and political stances, but is a rather complicated hierarchy of people and groups with different ideological opinions. These divisions within the Church especially exist within the debate around the legalization of divorce. The different factions include groups within the Church and groups affiliated with the Church.

BBC correspondent Elliott Gotkine noted the cleavage between some Catholics at one Sunday Mass in Santiago. When asked about divorce in October of 2003, one woman in her early twenties stated, "I'm really proud that Chile is one of the last

countries where the law hasn't been approved. As a Catholic person, I think marriage must be respected and a commitment for life."

Nearby, the journalist overheard a man grumble that "the existing system was out-of-date 'because there is a lot of hypocrisy in [their] society.'" <sup>72</sup>

The young woman would belong to the more conservative sect of Chilean Catholics that is often called 'the integralists' because they seek to integrate Catholic doctrines into the law in order to morally preserve society. <sup>73</sup>



SANTIAGO LLANQUIN | THE ASSOCIATED PRESS

Josefina Pereira wears a wedding dress as she and her friend, Pablo Gaete, present 35,000 signatures opposing divorce legislation at the presidential palace in Santiago, Chile, November, 2003. <sup>74</sup>

Based on her research, Merike Helena Blofield describes this group as the part of the Church that is ultra-conservative and that believes that "Catholic moral values are universal and reflect human nature," and that faith should be the "judge of all." This means that this traditionalist group seeks to integrate Catholic morals into national law, and in this case, Chilean law.

The middle-aged man, on the other hand, belongs to the more liberal Catholic persuasion that is in favor of divorce as well as some other laws that represent Catholic

<sup>72</sup> Elliott Gotkine, "Till the Divorce Law Becomes Legal," *BBC News*, (6 Oct. 2003), [<http://newsvote.bbc.co.uk/mpapps.pagetools/print/news.bbc.co.uk/1/hi/world/americas/3167254.stm>] Accessed on 7 Nov. 2003.

<sup>73</sup> The word 'integralist' has appeared in several sources and is consistently used to describe opponents to the divorce law. Two examples of sources with this word are:

Pia Rajevic  
and

Merike Helena Blofield.

<sup>74</sup> Eduardo Gallardo, "Divorce, Chilean Style: Church makes sure it won't be easy." *The News Tribune*. (Tacoma, WA: Tacoma News Inc., 10 Oct. 2003), [<http://www.tribnet.com/news/story/4126777p-4141782c.html>] Accessed on 7 Nov. 2003.

The people in the picture are examples of people in opposition to the divorce law's passage. They would probably be considered 'integralists,' but there is not enough information here to determine this for certain.

morality. This group is not often discussed, however, as they merely seem to fit into the generic portion of the population that is in favor of the passage of a divorce law.

Members of this group could include but are not limited to Catholic feminists, politicians, or employees of any group that fights to legalize divorce. Just like the grumbling man at mass, they are Catholic, yet they support a law that is not in line with the Catholic doctrine.

This group of Catholics must have existed according to the consistent statistics from the polls. According to those figures, 77% of the population declared themselves to be Catholic, and 70% of the population was in favor of the passage of a divorce law from the late 1990s to 2003.<sup>75</sup> While not every person who is Catholic supports a divorce law and not every person who is in favor of divorce is Catholic, there is a clear overlap in the Catholic Chileans and those who support a divorce law.

As opposed to their quiet liberal Catholic counterparts, the conservative integralists are extremely vocal about their opinion. People from this political and religious standpoint are strongly identified with the Church, and often make public statements, especially in regard to the divorce debate. In fact, of the dozens of articles reviewed that mention this debate, hardly any of them did not contain at least one quote from an authority of the Catholic Church that condemned divorce. Jorge Morales, the frequently cited lawyer for the Catholic hierarchy, is quoted numerous times saying that the passage of the divorce law “could be a first step leading to a degradation of

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<sup>75</sup> Kevin G Hall.

Not all of the polls claim the same percentage of people is Catholic. An article written in 2001 by Eduardo Gallardo entitled “Legalizing Divorce Still Far Away in Chile” (citation found in the annotated bibliography) states that 84% of the population is Catholic. This discrepancy could indicate that either the polls have a large margin for error, or, since there is a two year time lapse between the first and second statistic, that there were fewer self-declared Catholics in 2003 than there were in 2001. Neither source indicates where they found the percentage.



society.”<sup>76</sup> Many articles recorded Cardinal Francisco Javier Errazuriz asserting that divorce would be a solution to society’s problems that would actually “imply the destruction of the notion of the family.”<sup>77</sup> Conservative Senator Hernan Larrain expressed concern in regards to the possible chain of events that would follow the legalization of divorce: “Once divorce is approved, then come abortion laws, and once abortion laws are approved, then we’ll have homosexual laws that will permit union within the gay community.”<sup>78</sup>

All of these men are high profile officials who are Catholic and were also frequently quoted predicting the disintegration of society if divorce did in fact become legalized. Just like the television commercials, these statements reached all facets of Chilean society. Whether or not they have an effect on public opinion, the public statements by Morales, Cardinal Errazuriz, Senator Larrain, and several other conservative Catholics made it seem like the entire Catholic Church hierarchy opposed the passage of a divorce law. It is therefore crucial to remember the quiet majority of Catholics that are made visible through the public opinion polls in order to understand the significance of the blindness of the Church’s official stance on the matter. The majority of Catholics and Chileans in general were in favor of a divorce law, yet the Church’s powerful and conservative hierarchy projected its voice in an attempt to make the nation and government believe that all Catholics were opposed to its passage. The true

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<sup>76</sup> Reese Elrich, “Where divorce is illegal, a push for the right to say ‘I don’t,’” *iVillage.com*, (3 May 2002), [<http://pages.ivillage.com/imhabba63/marriedcatholicpriest/id5.html>] Accessed on 7 Nov. 2003.

This is just one of the several sources that cites this quote.

<sup>77</sup> Larry Rohter, “Chile Inches Towards a Law that would make Divorce Legal,” *New York Times*, (29 Sept. 2003).

<sup>78</sup> Elliott Gotkine, “Till the Divorce Law Becomes Legal,” *BBC News*, (6 Oct. 2003), [<http://newsvote.bbc.co.uk/mpapps.pagetools/print/news.bbc.co.uk/1/hi/world/americas/3167254.stm>] Accessed on 7 Nov. 2003.

opponents were actually the minority Catholic elites and Church leaders with a loud voice.

#### **4.2 The reasons for opposing divorce's legalization**

The quotes from those officials represent a sample of what that loud voice said, as did the “sonorous voice” from the TV commercials. But what did that voice really say? It announced to the nation that divorce would destroy society and that it would have negative consequences on all aspects of life in Chile. In essence, it proclaimed that the Catholic Church was against divorce and why.

The reasons why the conservative Catholic Church's hierarchy in Chile so vehemently opposed the passage of a divorce law can be found in the Catholic Catechism found in Vatican documents. The official Catholic stance on divorce reads as follows in the catechism:

The Lord Jesus insisted on the original intention of the Creator who willed that marriage be indissoluble . . . Between the baptized, ‘a ratified and consummated marriage cannot be dissolved by any human power or for any other reason other than death . . . Divorce is a grave offense against the natural law. It claims to break the contract, to which the spouses freely consented, to live with each other until death. Divorce does injury to the covenant of salvation, of which sacramental marriage is the sign. Contracting a new union, even if it is recognized by civil law, adds to the gravity of the rupture: the remarried spouse is then in a situation of public and permanent adultery . . . Divorce is immoral also because it introduces disorder into the family and into society. This disorder brings grave harm to the deserted spouse, to children traumatized by the separation of their parents and often torn between them, and because of its contagious effect which makes it truly a plague on society.<sup>79</sup>

Many reasons that the spokespeople for the Catholic opponents to the proposed divorce law voiced can be traced back to the catechism. The entire moral problem that the Church has with divorce stems from the Catholic belief that Jesus Christ ordained

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<sup>79</sup> *Catechism of the Catholic Church*, [[http://www.vatican.va/archive/ENG0015/\\_INDEX.HTM](http://www.vatican.va/archive/ENG0015/_INDEX.HTM)] Accessed on February 14, 2004.

marriage as “indissoluble;” the very nature of divorce, therefore, is destructive as it defies the law that God decreed. The Catholic Church in Chile uses this as the foundation of its argument against the legalization of divorce, from the prediction that “a divorce law will push children of divorced couples to drugs and booze”<sup>80</sup> in the already infamous television campaign to Jorge Moralez’s assertion that a divorce law “could be a first step leading to a degradation of society.”<sup>81</sup>

Several letters written sporadically between the years 2000 and 2003 to the editor of *El Mercurio*, one of Chile’s most widely distributed newspapers, expressed several citizens’ opinions on the matter. All of the authors of these letters are members of the conservative group Fundacion Chile Unido, which is closely linked to the Catholic Church. The information the letters present can therefore be considered reasons used by the conservative Catholic opponents of the divorce law to justify their challenge to the proposal. The motivations outlined in their content also linked directly back to the Catechism from the Vatican. These letters serve as evidence that resistance to the divorce law was not based on new arguments but rather on established Catholic beliefs that permeated statements made by Church officials and Church advocates alike.

In the letters, the writers highlighted many statistics from the United States, not unlike the television commercials, and described the negative effects of divorce on society in general. One of the letters claims that, based on U.S. research, children of divorced parents cannot experience a real childhood, that they are more likely to become alcoholics and drug addicts in their adolescence, engage in sexual activity by the age of

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<sup>80</sup> “Founder and education in the teachings of the Founder of Opus Dei,” *Opus Dei. Romana Bulletin*, (Dec. 2002), [<http://en.romana.org/art/35/4.2/5>] Accessed on 7 Nov. 2003.

<sup>81</sup> Reese Elrich, “Where divorce is illegal, a push for the right to say ‘I don’t,’” *iVillage.com*, (3 May 2002), [<http://pages.ivillage.com/imhabba63/marriedcatholicpriest/id5.html>] Accessed on 7 Nov. 2003.

thirteen, and flee from happiness for the entirety of their adulthood.<sup>82</sup> Another letter claims that divorce will push families and particularly women and children into poverty. It uses European and United States statistics to assert that 50% of children with divorced parents who were not previously poor fall under the poverty line after the divorce.<sup>83</sup>

Other reasons for the Catholic Church hierarchy's strong opposition were articulated by Jorge Morales and Flavio Angelini, director of the House of Family Foundation, an organization that promotes family stability and aims to help couples stay together. Jorge Morales again mentioned his fear that divorce would destroy society, because "passing a divorce law could lead to the legalization of abortion or genetic manipulation of births. This is a big concern of the Church."<sup>84</sup> Morales, not unlike Senator Hernan Larrain, used scare tactics by connecting other controversial issues with divorce without rationalizing that connection. The reasoning seems to be that, since divorce would lead to the destruction of society, other activities that Chilean Catholics find morally wrong might also be legalized.

Morales voiced another issue that divorce's opponents had with the proposed law. The fear was that divorce would take away the freedom of families to stay together. Morales stated, "If you say you respect freedom of religion, why shouldn't the law let us marry for life if that's what we desire? . . . It's an insurmountable contradiction."<sup>85</sup> This

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<sup>82</sup> Roberto M. Peralta, "Los hijos del divorcio" (Children of divorce), *El Mercurio*, Letter to the editor, (16 June 2002), [[http://www.chileunido.cl/comunicaciones/mercurio/mercurio\\_13.htm](http://www.chileunido.cl/comunicaciones/mercurio/mercurio_13.htm)] Accessed on 15 Feb. 2004.

<sup>83</sup> Paulina Villagran, "Divorcio y pobreza" (Divorce and poverty), *El Mercurio*, Letter to the editor, (9 June 2003), [[http://www.chileunido.cl/comunicaciones/mercurio/mercurio\\_22.htm](http://www.chileunido.cl/comunicaciones/mercurio/mercurio_22.htm)] Accessed on 15 Feb. 2004.

<sup>84</sup> "Divorce – Chilean Style." *Common Ground: Radio's weekly program on world affairs*, interview by Reese Elrich, (2 July 2003), [<http://www.commongroundradio.org/shows/02/0227.shtml>] Accessed on 7 Nov. 2003.

<sup>85</sup> The Taipei Times. "Chileans divided over bill to legalize divorce." *Taipei Times*. (Santiago,

appeal to freedom demonstrates that the opposition resorted to a distortion of logic. None of the proposed divorce bills ever suggested that legalized divorce would force people to end their marriages, as suggested here by Morales. On the contrary, the Marriage Code as it was before March did obligate couples that would have opted for divorce to stay together since divorce was not allowed. Nevertheless, this issue of freedom served as at least the public motivation for some groups to oppose the passage of the divorce law.

Angelini employed different logic in that he used the same arguments to oppose divorce that supporters of the passage of the law used to promote it. Just as proponents of the divorce law claimed to be champions of women and children's rights, he claimed, "The divorce law is against marriage, against women and children. Women will become poorer; children will feel the conflict. We think a lot of couples want to save their marriages and resolve their problems."<sup>86</sup> His assertions also fell in line with the basic Catholic Catechism in that he feared that legalized divorce would lead to the systematic breakdown of the family, or, as the Catechism says, divorce "introduces disorder into the family and into society."<sup>87</sup> However, his arguments also conflicted with the reformist view on the matter as they also expressed their desire to promote the rights of women and children in their campaign to legalize divorce.

In summary, the motivations for the opposition to the divorce law were based on the long established principles laid out in the Catholic Catechism, or, "the elementary book summarizing the principles" of Catholicism.<sup>88</sup> The Chilean conservatives of the Catholic hierarchy feared that legalized divorce would lead to a fundamental breakdown

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30 Sept. 2003), p. 6. [<http://www.taipetimes.com/News/world/archives/2003/9/30/2003069853>]  
Accessed on 7 Nov. 2003.

<sup>86</sup> "Divorce – Chilean Style."

<sup>87</sup> *Catechism of the Catholic Church*, see p. 36.

<sup>88</sup> Wordnet.

of the family institution and of society itself. Spokespeople used statistics from the U.S. to support this assertion. They also generated a hypothetical situation in which, in one long chain reaction, divorce would act as a sort of “gateway law,” as it could lead to the legalization of abortion, rights for homosexual people, and genetic manipulation. One of the most common themes of the hierarchy’s battle against divorce was the detrimental effect that such a law would have on the children of divorced parents. Opponents of the law thought that it would drive more adolescents into a life of substance abuse, violence, and general unhappiness.

#### **4.3 The methods used by the opponents to block the passage of the divorce law**

The opponents of a divorce law largely consisted of politically right-wing Catholics who seek to integrate the Church’s morality in Chilean law. They do so because, according to their belief system, this will preserve society. Divorce, of course, is a prime example of the Catholic hierarchy throwing its weight in politics and society in order to achieve its goals. This process, while not unusual, must be noted in order to highlight the inconsistency between the Constitution’s claims that Chile is a secular nation. The reason that the Church was successful for so long can be attributed to the methods and influence employed by the champions of the Catholic faith, the organization they have, their resources, and the great extent to which they publicize their opinions. Table 1 is contains a plethora of information to help understand the networks and resources that make the Catholic Church so successful in lobbying while simultaneously explaining why proponents of the divorce law, here deemed “reformist groups” have not realized as many accomplishments as their political rivals.

**Table 2. Comparison of conservative and reformist interest groups<sup>89</sup>**

	<b>Catholic Church</b>	<b>Conservative groups (including Opus Dei and Legionaries)</b>	<b>Reformist groups</b>
<b>Finances</b>	High	High, internal and external	Low, external
<b>Organization</b>	High, centralized & hierarchical	High	Low
<b>Schools, universities</b>	High % Catholic	Elite universities and schools	Few, reliant on public institutions
<b>Networks</b>			
<b>Religious organizations</b>	—————	Catholic Church	No
<b>Political links</b>	Center-Right-Left	Right, some Center	Left-Center
<b>Business and Media</b>	Sympathetic	Sympathetic	Un-sympathetic
<b>International Links</b>	Vatican	Growing in number	Declining in number <sup>90</sup>

Outside of the Church hierarchy exist certain Catholic organizations that are referred to in the chart as “interest groups.”<sup>91</sup> These organizations include: Opus Dei, Legionaries of Christ, Fundacion Chile Unido, Fundacion Maria Ayuda, Porvenir de Chile. Other prominent groups include Hacer Familia and Flavio Angelini’s House of the Family Foundation. Opus Dei and Legionaries of Christ are the largest groups with the most influence. Both are powerful international organizations with ambitions to make their effect visible in the political sphere. They even have many members in the Senate, which is a major tool in furthering the groups’ political goals.<sup>92</sup>

<sup>89</sup> Merike Helena Blofield, p. 30. This table is based on the author’s observations based on her research. Note that she makes the distinction between the Catholic Church and its interest groups.

<sup>90</sup> The reformist groups are merely the groups that are discussed in this research as the groups that support the passage of a divorce law. The reformist groups gained support and international assistance during the years under Pinochet in the fight for democracy. Since then, however, the groups have declined greatly as their international sources now expect them to find domestic funding since there is no longer any apparent need for democratization.

<sup>91</sup> Merike Helena Blofield, p. 28.

<sup>92</sup> Merike Helena Blofield, p. 33.

Although these two groups have similar goals, they have slightly different methods that they focus on when promoting those goals. Legionaries for Christ, which formed in Chile in the 1980s, claims that its “explicit mission . . . is to influence the elites, who in turn influence the social and political climate of the country.”<sup>93</sup> The cycle begins with the Legionaries, who recruit powerful people to become members, who in turn can change the political atmosphere.

Opus Dei is more concerned with what the public hears, however, and therefore often seeks to influence society through the media. This tactic was made clear through the launching of the television campaign in October of 2003. This organization believes that the media has “the capacity to do grave harm to families by presenting an inadequate or even deformed outlook on life, on the family, on religion and on morality.”<sup>94</sup> The organization therefore considers it to be public authorities’ responsibility to monitor the content of television programs and commercials for the benefit of the family and of society itself. The other interest groups mentioned act primarily as lobbying groups that are dedicated to preserving the Chilean family through the legislative system and through family counseling and services.

These ‘interest groups’ epitomize the Catholic Church’s most powerful weapon in this battle against the passage of a divorce law: organization. The Church has existed for centuries and therefore has the experience and foundation needed to have established doctrines, the ability to effectively communicate these doctrines, and the resources necessary to spread and encourage belief in these doctrines. The undeniable influence that the Catholic belief system had on the debate in Chile stems from the organization of

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<sup>93</sup> Merike Helena Blofield, p. 31.

<sup>94</sup> “The Media and the Family: A risk and a richness,” *Holy See*, (Opus Dei: 14 February 2004), [<http://www.opusdei.org/art.php?w=32&p=7152>] 14 Feb. 2003.



the Church. These interest groups can perhaps be thought of as extensions of the Catholic machine in Chile that helped perpetuate Catholic interests in the government.

Many of the members of the Chilean elite are conservative Catholics. This can be attributed to several factors. One is the influential interest groups, especially Opus Dei and Legionaries for Christ, which have so many powerful members. As previously mentioned, the Legionaries even went so far as to specifically seek the membership of the business elite upon their founding.<sup>95</sup> Because these groups are internationally established, they are already highly organized, which doubles with the Church's already high organization, and their prestige attracts members with the financial and political resources to perpetuate this organization in Chile. These groups are highly conservative, and they particularly help the conservative Catholic hierarchy in uniting the elite members of the Church in groups that work towards goals in line with the Catholic doctrines. With the money and influence from the organization of the interest groups, the Catholic Church's opinions are promoted more effectively in the government and even to society as a whole, as in the case of the Opus Dei member sponsoring the previously mentioned advertisements.

The long-standing basis of this relationship between the Catholic Church and the Chilean elite, synonymous with the Conservative oligarchy in the nineteenth century, holds great significance in the current methodology the Church used to oppose the passage of the new Marriage Code. The relationship dates back to the colonial period when, under the Spanish '*patronato real*,' the Church and State had a close relationship, and the president even named the Church officials.<sup>96</sup> Since colonization, despite the

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<sup>95</sup> Merike Helena Blofield, p. 33.

<sup>96</sup> Library of Congress Studies. "Religion in Chile: Churches and politics." *What you need to know about*.

conflicts, many Chilean elites have supported and promoted the Church, and vice versa, in a seemingly endless cycle. Land and wealth serve as one example of this long-standing relationship. Historically, many of the Catholic officials have been wealthy landowners who could contribute to the Church financially, providing the Church with vast amounts of money and wealth. Even today the Church has vast amounts of land recently transferred to it by the government.<sup>97</sup>

Also significant in this relationship are the schools, as noted in Table 1. The Catholic Church and the groups affiliated with it have founded some of the most elite private schools and universities in the country, most notably the University of the Andes, founded by Opus Dei, the Catholic University, and some other schools founded by Legionaries for Christ. The elite's children attend these schools, as only the wealthy can afford them, and the children are in turn exposed to Catholic doctrines at a fairly young age.

The influence of these schools is significant for several reasons. First of all, the children learn Catholic doctrines and beliefs from both home and school, and later, the university. Since the Catholic schools rank highly among employers, children from these schools often become part of the elite upon graduation. While this is difficult and perhaps impossible to prove or even support, these former-students-turned-elites have a certain connection with the church, perpetuating the relationship between the Church and the elite, but also giving the Church and its organizations financial resources as well as

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March 1994. Found on 7 November 2003 at  
[http://atheism.about.com/library/world/AJ/bl\\_ChileChurchPolitics.htm](http://atheism.about.com/library/world/AJ/bl_ChileChurchPolitics.htm).

<sup>97</sup> Merike Helena Blofield, p. 31, her source is not given.

intellectual resources. These intellectual resources proved to be important as the Church constructed arguments against the passage of a divorce law.<sup>98</sup>

The influence on the elites that the Catholic interest groups have provides the interest groups, and therefore the Church, with an abundance of financial resources. These come from tuition from the schools, which provide a profit, international ties, and donations from the business elite.<sup>99</sup> The student fees have experienced an increase through changes in educational policy in which the government gave the Church a little help to raise funds, thereby promoting the Church in its mission and interests.

While statistics were not found that document the average income of the conservative Catholics, it is worth mentioning that, in contrast to the correlation between the Church and the elites, the Evangelical churches became especially popular in the poorer neighborhoods during the military dictatorship of Pinochet.<sup>100</sup> Since people in a lower income bracket began to choose a denomination of Christianity other than Catholicism, the financial power of the Church increased, and therefore its ability to influence Chilean society and government. Although people were leaving the Church, the fact that they did not have much money is significant because it indicates that the Church could have lost great numbers of people without losing many financial resources. The financial gap between denominations increased, giving the Catholic Church comparatively more money, but less support. The Church thereby maintained its symbolic reign.

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<sup>98</sup> The information in the last 3 paragraphs has been drawn from Merike Helena Blofield, pp. 31-36.

<sup>99</sup> Merike Helena Blofield, pp. 31, 37.

<sup>100</sup> Library of Congress Studies. "Religion in Chile: Churches and politics." *What you need to know about*. March 1994. [[http://atheism.about.com/library/world/AJ/bl\\_ChileChurchPolitics.htm](http://atheism.about.com/library/world/AJ/bl_ChileChurchPolitics.htm)] Accessed on 7 Nov. 2003.

All of the organizational skills the Church and its groups practice among the Chilean elite and the wealth of its financial resources are directed towards either keeping Catholic principals in the law, or promoting those principles in areas of society that are not yet influenced by them. The ultimate goal, as stated many times by many officials, is to preserve the integrity of the family for the overall well being of society. The two main networks the groups target for the advancement of this goal are the politicians and the media.

The Church has the definite advantage in the political arena as it has connections to the right, center, and left. Its ties with the right are fairly self-evident since both are conservative and have similar ideas about the world. This relationship is further strengthened through the Catholic interest groups. According to Irish Priest John O'Reilly, the Legionaries' mission is "to influence the most powerful sectors of society; that is, current and future leaders in the political, economic, and social realm."<sup>101</sup>

The Church's ideas of influence seem to be in line with the Legionaries,' as Cardinal Jorge Medina Estevez asserted that, "Catholics should not vote for politicians who promote ideas incompatible with the social doctrine of the Church."<sup>102</sup> Any Senator or Congressman who does dare to vote against the Church's doctrines does so at the risk of being excommunicated by the Church.<sup>103</sup> The Church and the conservative organizations seek to direct the course of politics and society in general, using their

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<sup>101</sup> Merike Helena Blofield, p. 28.

<sup>102</sup> "No votes for Church opponents." *The Catholic World Report*. October, 2001.  
[<http://www.catholic.net/rcc/Periodicals/Igpress/2001-10/wchile.html>] Accessed on 8 Feb. 2004.

<sup>103</sup> Gustavo Gonzlaez. "Chile: The Long Battle for a Divorce Law." *Imagen, The Latin Voice*. (Santiago: 1 Nov. 2002),  
[[http://www.imagenlatinoamericana.com/latinoamerica/latinoamerica\\_en.asp?articleId=286](http://www.imagenlatinoamericana.com/latinoamerica/latinoamerica_en.asp?articleId=286)]  
Accessed on 7 Nov. 2003.

power to influence the elites, who in turn can control the flow of money and information as well as what is seen on the floor of Congress for debate.

This mission is quite possibly what members of Legionaries for Christ would call successful, as both Opus Dei and Legionaries maintain close contact with right to center-right parties, and “many of the rightwing political elites belong to Opus Dei or support the Legionaries.” It can be inferred from this powerful influence of Church organizations that the threat of ex-communication from the Church is hardly necessary for many Senators. Their ideology is already in line with the Church’s doctrines, as seen by their affiliations with and support of these groups.

In the struggle against the passage of the divorce law, the Church and its interest groups flexed their political muscles at the end of the previous decade by blocking any discussion of the bill.<sup>104</sup> This allegation was made by Congresswoman Maria Antonieta Saa and must therefore be evaluated carefully. However, if her assertion is correct, this political maneuver can be considered an important tactic used by the opposition in its struggle to ultimately prevent divorce from being legalized. Not only did they try to coerce the conservative politicians to align themselves with the Catholic doctrines on this issue, but they also tried to prevent reformists from presenting their case in Congress.

Once there was no other way to continue the delay of the anticipated divorce law in its journey through Congress, the opposition proposed that certain conditions be made that would make divorce even harder to obtain than the previously available annulment. This was a strategy used by the opposition as a sort of damage control. If divorce were to be passed, then it wanted it on its own terms.

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<sup>104</sup> "Chile Divorce." Common Ground Radio. The Stanley Foundation. 2 July 2002. [<http://www.commongroundradio.org/shows/02/0227.shtml>] Accessed on 7 Nov. 2003.

Jorge Morales Retamal, a legal adviser to the national conference of Catholic Bishops and an attorney for Chile's Roman Catholic Church, bluntly confirmed the fact that "church leaders were resigned to lose the battle" and therefore sought to limit the damage done by the imminent passage of the law by exerting pressure to ensure that some of their requests for revision were met.<sup>105</sup> Cardinal Francisco Errazuriz emphasized the weight the Church has in Chilean politics in a speech he made on Chile's independence day, September 18. In the speech, he stated that "he expected [the proposed revisions] to be included 'because of the influence of the Church on Catholic senators,' especially those of the conservative Christian Democratic Party."<sup>106</sup> Hypocrisy oozes from the confidence these two men had in their ability to sway political proceedings and to alter the proposed law. Despite the separation of church and state, the Church still had well-founded hopes to influence the government.

The content of the proposed revisions are just as important as the fact that the Church made them. One of them was to change the one-year waiting period for uncontested divorce and a three-year waiting period for contested divorce, the time periods that were actually passed in March, to a three-year wait for a mutual petition and a five-year wait for a contested one.<sup>107</sup> Other desired provisions were the "civil recognition of religious weddings and the 'no-divorce' option."<sup>108</sup> The 'no-divorce'

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<sup>105</sup> The Taipei Times. "Chileans divided over bill to legalize divorce." *Taipei Times*. (Santiago: September 30, 2003), p. 6. [<http://www.taipeitimes.com/News/world/archives/2003/9/30/2003069853>] Accessed on 7 Nov. 2003.

<sup>106</sup> Eduardo Gallardo, "Divorce, Chilean Style: Church makes sure it won't be so easy." *The News Tribune*. (Tacoma, WA: 10 Oct. 2003), [<http://www.tribnet.com/news/story/4126777p-4141782c.html>] Accessed on 7 Nov. 2004.

<sup>107</sup> Reese Elrich, "Untying Chile's Marriage Knot." *The Christian Science Monitor*. (10 Apr. 2002) [<http://www.csmonitor.com/2002/0410/p07s01-woam.htm>] Accessed on 9 Sept. 2003.

<sup>108</sup> The Taipei Times. "Chileans divided over bill to legalize divorce." *Taipei Times*. (Santiago:

option is a sort of divorce waiver, meaning that at the time of the marriage, the couple may sign a contract to eliminate any future possibilities of divorce. Finally, the Church wanted mandatory counseling for couples considering divorce, and for courts to require that the couple present proof of such counseling upon petitioning for a divorce.<sup>109</sup>

The long waiting periods, the divorce waiver clause, and the mandatory counseling all are part of the “last gasp” of the Church and elites to try to impose their values on a changing society that was articulated by Marta Lagos. All three of these provisions were to try to make divorce difficult to obtain, to delay the process, and to encourage couples to stay together. The waiver was perhaps the most desperate of the suggestions, as it would pressure couples to sign away their right to divorce forever at the time of their marriage. Psychologically speaking, having the waiver hanging over the ceremony could have created mistrust within couples. Should one desire to sign the waiver and the other not, questions of trust would arise in the mind of the partner who wanted to surrender the right to divorce. This tension may have put enough pressure on many couples to sign the waiver, thus perpetuating the current problems caused by not having divorce.

The civil recognition of religious weddings was the only provision that was actually included in the law that recently passed, but the mere suggestion of all of these requests highlights several key points. First, they reveal the Church’s long-standing power in the political system and how it exerts this power. First it tried to block even the discussion of the bill, but once this was no longer possible, it attempted to transform the

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30 Sept. 2003.) p. 6. [<http://www.taipeitimes.com/News/world/archives/2003/9/30/2003069853>] Accessed on 7 Nov. 2003.

<sup>109</sup> “Controversial TV campaign of the Chilean church against divorce.” *Independent Perspective*. (6 Oct. 2003) [[http://www.riorevuelto.org/news/ipmail\\_59\\_1.html](http://www.riorevuelto.org/news/ipmail_59_1.html)] Accessed on 7 Nov. 2003.

proposal into something that was still acceptable to the Church's hierarchy. The civil recognition of religious weddings does acknowledge weddings from all religions, not just Catholic ones, so it was a small victory for the Church, but a victory none the less.

This rather unsubtle method of coercion was matched only by the opposition's manipulation of the media, yet another important vehicle the Church used to exert its influence on society. As highlighted in Table 1, the media is sympathetic to the Church and conservative organizations, and what's more, the two conglomerates that own all of Chile's national newspapers are right-wing and conservative themselves.<sup>110</sup> This gives the Church and conservatives an enormous advantage over reformist groups who must resort to alternative newspapers and other sources to be heard. The amount of media control that the right has had greatly impacted society's morals and norms, or at least controls what the people hear about what is right and wrong.

One final strategy employed by the opposition is its attempt to block the Chilean government from signing an Optional Protocol of CEDAW in 2002. The Optional Protocol would have given the committee the right to hear individual women's claims of human rights abuses, and could have been a large step towards gender equality. CEDAW had been so influential in the past decade that the Conservatives actually opposed Chile's signing it "because it would undermine Chile's sovereignty."<sup>111</sup> The Catholic Church even admitted that it feared that signing the protocol would lead to the legalization of divorce and abortion and revised sterilization laws.<sup>112</sup>

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<sup>110</sup> Merike Helena Blofield, p. 35.

<sup>111</sup> "Chilean Senate Fears for Sovereignty if UN Document is Ratified." *EWTN News, Catholic World News Brief*. (25 Jan. 2002)  
[<http://www.ewtn.com/vnews/getstory.asp?number=23153>] Accessed on 8 Feb. 2004.

<sup>112</sup> *Ibid.*



This maneuver revealed the fundamental problem of this debate. The Catholic Church, in its eagerness to protect the people of Chile by preserving Catholic doctrines in the law, ignored the actual state of society. Church officials stated that they wanted to protect women and therefore so vehemently opposed the passage of the divorce law. By blocking the Optional Protocol, they actually hurt women by not allowing them to receive more help in attaining equality with men and also preventing their voices from being heard on the topic of human rights abuses. The problem with this is that there seems to be a major cleavage between what the Church considers beneficial and protective of the people, and what the people think.

For more than a century, the Catholic Church and its conservative elite allies protected the Civil Marriage Code of 1884. Although they claim to want to protect the Chilean people, often their logic falters and hints of the real motivations for their long campaign are revealed: they actually want to preserve Catholic doctrines in a secular government that rules over a modern society. The main argument put forth by opponents of the divorce law was based largely on the devastating effects they predicted that legalized divorce would have on the Chilean family.

They were successful for many reasons in the untiring opposing front they unleashed against the passage of the divorce law. The groups involved in this front had complicated relationships with each other. Perhaps one of the principle advantages they had, however, was based on the intricacies of these relationships, particularly since they are so intimately connected with the Chilean elite. This tie gave the Church and its interest groups vast amounts of resources, especially financial and political resources. Despite the extent of the influence opponents of the divorce law had, this influence

eventually faltered in the face of the stamina demonstrated by reformists, changing public opinion, and shifting economic and social realities. The Civil Marriage Code of 1884 no longer remains untouched by Congressional reform. The next chapter seeks to determine the effects of the former Marriage Code on Chilean society, especially in relation to the opposition's predictions of the adverse effects that a divorce law would have on society, in particular the family. A portrait of Chilean reality as it has been for the last decade will be painted, and it will be contrasted to the one created by the divorce law's opponents.

## **5. The Family Crisis in Chile: Social and cultural realities**

Throughout the twentieth century, debates revolved around the issue of changing the Civil Marriage Code of 1884. Both the groups that wanted a law for divorce and the groups that opposed any such legislation claimed to be fighting for the good of the Chilean people. Neither side believed they did anything that was outside of the best interests of the general Chilean population.

The problem is that the images of reality painted by these most vocal opponents in this debate were very different. Proponents of the divorce law based their motivations to fight for its legalization more on empirical data evident in the actual Chilean society. On the other hand, the Church and other opponents to the law used arguments based on Catholic doctrines and speculations of what would happen in society should the divorce law pass. Since the recently passed revisions to the Marriage Code will not take effect for six months after President Lagos signs it, there is no way to determine at this time the outcome of the law's passage. However, the images of the devastation that legalized divorce would cause that were painted by the Church imply that its opposition to the law was based on an unrealistic idea of current Chilean reality.

### **5.1 The Chilean social reality based on empirical data**

One of the concerns of the opposition is that "a divorce law will push children of divorced couples to drugs and booze." According to a 2002-2003 study done, ironically, by the Catholic interest group Chile Unido, excessive consumption of alcohol by people between the ages of 15 and 24 has risen 400% in the last three decades. Furthermore, one

in seven school children admitted to using illegal substances, and the consumption of marijuana had increased in high schools in the year the study was done.<sup>113</sup> This rise in consumption has occurred in a society that did not have legalized divorce. The claim repeatedly made by opponents to the divorce law was not that the rates of consumption would increase, but that children would begin to consume these substances. However, according to Chile Unido's study, a growing number of children are in fact already using alcohol and marijuana.

Opponents also claimed that "school dropout rates and domestic violence will climb" if divorce were legalized. However, 138,000 young people are already outside of the school system, and 11% of teenagers between ages 14 and 17 do not attend any sort of educational establishment.<sup>114</sup> Different sources are consistent in the statement that approximately 25% of Chilean women are victims of domestic violence,<sup>115</sup> and UNICEF reported that in 2000 more than 70% of children had been victims of some sort of violence from their parents, and 25.4% of all children had experienced severe domestic violence.<sup>116</sup> Children already drop out of school, and women are already abused. The argument the statistics will climb is not based on any fact, but rather pure speculation. Opponents to the divorce law do not seem to have recognized that these negative

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<sup>113</sup> "Communicate" A campaign made by Chile Unido in the years 2002-2003 to encourage better communication between parents and children.  
[[http://www.chileunido.cl/asistencia/campana\\_comunicate.htm](http://www.chileunido.cl/asistencia/campana_comunicate.htm)] Accessed on 15 Feb. 2004.

<sup>114</sup> Ibid.

<sup>115</sup> Industrial Cooperation Program, Canadian International Development Agency, "Gender Profile: Chile," (February 2002),  
[[http://www.acdicida.gc.ca/cida\\_ind.nsf/vLUallDocByIDEn/8FC0E492CD4F032385256BF20067D924?OpenDocument](http://www.acdicida.gc.ca/cida_ind.nsf/vLUallDocByIDEn/8FC0E492CD4F032385256BF20067D924?OpenDocument)] Accessed on 21 Mar. 2004.

Reese Elrich, "Untying Chile's Marriage Knot," *The Christian Science Monitor*, (10 Apr., 2002),  
Found at <http://www.csmonitor.com/2002/0410/p07s01-woam.htm> Accessed on 9 Sept. 2003.

These are just two examples of sources with these numbers.

<sup>116</sup> Industrial Cooperation Program.

conditions already existed in Chilean society. This made their case less convincing in the long run.

Arguments against the legalization of divorce often appealed to the family. Countless times one opponent or another stated that divorce would destroy the family structure. However, it can be argued that there was not truly a strong family structure to protect. According to certain surveys, only 55% of Chilean families in 2001 fit the traditional family mold, that is to say that they had a father, a mother, and children.<sup>117</sup> Barely more than half of the families fit the image that opponents strove to protect.

There are many more indicators that many Chileans did not live their lives in a way the opponents to the divorce law would try to protect. In other words, there is substantial evidence to support the idea that much of Chilean society was far removed from the image put forth by the Catholic Church and others who did not want divorce to be legalized. In the past thirteen years, the number of marriages per year decreased by 45%. 104,740 couples married in 1990, but only 57,628 married in 2003. Conversely, the annual rate of annulments was rising. Between 1990 and 2003, the number of annulments rose from 5,014 to 6,679, i.e., by approximately 33.2%, and reached the highest number in 2002 at 7,085.<sup>118</sup>

The fact that the number of new marriages in Chile decreased over the course of the last decade while the total number of annulments increased demonstrates that there was already a crisis among families.<sup>119</sup> The Chilean people have been disillusioned with

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<sup>117</sup> Clarisa Hardy, "Virtudes Publicas y Vicios Privados (La pendiente led de divorcio en Chile)," *Editorial Voz Chile 21*, (Santiago: Fundacion Chile 21, 2002), [<http://www.chile21.cl/voz/2001/26.act>] Accessed on 31 Jan. 2004.

<sup>118</sup> Gobierno de Chile, Servicio de Registro Civil e Identificacion, "Inscripciones de Registro Civil," (Santiago: Registro Civil, data collected 25 Jan. 2004), [<http://www.registrocivil.cl/registro/co103/inscrip.htm>] Accessed on 31 Jan. 2004.

<sup>119</sup> See Appendix B.

the institution of marriage. There is no way to ascertain for sure why this has occurred without doing further analysis, but it is imperative to note the significance of these statistics. The decrease in the number of marriages occurred in a decade in which the population grew by approximately 2 million people. An estimated 60% of the total population of about 15,400,000 is between the ages of 15 and 59 years; the ages at which people marry fall into that group.<sup>120</sup> Therefore, while the reasons for the decrease cannot be determined at this time, there has been a definite decrease in the number of marriages in proportion to the growing population. The fact that there are nearly only half as many marriages now as there were just a little over a decade ago and that 33% more of marriages dissolve by annulment shows the deterioration of the institution of marriage, the very deterioration that opponents of the divorce law were trying to prevent. A crisis in the Chilean family had already occurred, so blocking the passage of the divorce would do no good in preventing already existing problems.

Further indicating that the Chilean family was already experiencing a crisis is the fact that, not only were fewer people marrying and more couples annulling, but more couples were living together outside of wedlock. According to the same survey that determined that only 55% of families fit the traditional ideal, 20% of Chilean parents were not married in 2001. Instead, couples with members who were only legally separated from past marriages and could therefore not marry their current partner headed some families.<sup>121</sup> Often it is suggested that many couples from lower income brackets form a large percentage of these families with unmarried parents. The reasoning behind

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<sup>120</sup> Jan Lahmeyer, "Chile: General data of the country," *Populstat*, (1999, 2004),  
[<http://www.library.uu.nl/wesp/populstat/Americas/chileg.htm>] Accessed on 12 May 2004.

<sup>121</sup> Clarisa Hardy.

this is that couples with less money do not marry in order to avoid the possibility of later wanting to end the marriage but not being able to afford an annulment.

Besides supporting the fact that there was a crisis in Chilean families before the legalization of divorce, the fact that 20% of couples live together outside of marriage leads to another problem in the society. Chile has the highest percentage of children born out of wedlock in Latin America. While laws have been changed to give illegitimate children more rights than ever before under the law, they still face social stigmatism, and, as late as 1997, the law did not allow them to become military officers or hold high police positions.<sup>122</sup> The effects of not having divorce in Chile were in part to create a society that was disillusioned with the institution of marriage, but that still lived under institutions that chastised deviators from the nineteenth century legalized moral code. The law did not allow people to divorce, so couples, for different reasons stemming from that fact, lived together out of wedlock, and even their children were forced to feel the negative effects of the Civil Marriage Code because of legal discrimination.

Yet another argument made by the opposition during the debate is that divorce is “against women and children. Women will become poorer; children will feel the conflict.”<sup>123</sup> Women and children were already hurt under the old law because of the high rates of violence, but also because of poverty. As noted, most women lost their property rights to their husbands under the old Marriage Code. Also, women only earn an average of 66% the income of men.<sup>124</sup> Since annulments are expensive and difficult to

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<sup>122</sup> Feminist Daily News Wire. “Chilean Feminists Work to Change Divorce Law.” *Feminist Majority Foundation Online*. (5 Aug. 1997)

<http://www.feminist.org/news/newsbyte/printnews.asp?id=37111>] Accessed on 12 Sept. 2003.

<sup>123</sup> “Chile Divorce.” *Common Ground Radio*. The Stanley Foundation. 2 July 2002.

[<http://www.commongroundradio.org/shows/02/0227.shtml>] Accessed on 7 Nov. 2003.

<sup>124</sup> Industrial Cooperation Program. Canadian International Development Agency. “Gender Profile:

obtain, many couples lived in a *de facto* separation, or even a legal separation upon ending the relationship, but, either way, they were still legally married. The husband still had the property rights, however, so often women lost wealth for that reason.

Furthermore, women's wages are lower than men's on average; despite their freedom to work and earn a living, in actuality, it is much more difficult for women to do so. While a radical change in society's pattern of thinking in regard to women and gender relations is necessary for the wage differentiation to improve, at least with legalized divorce women will be able to have the freedom to end a marriage and recover their property from their ex-husbands.

Certainly the most positive result of the passage of the divorce law is that now men and women have the right to legally end past marriages, to move on with their lives, and even to remarry. Many outspoken opponents of the law claimed that the people actually wanted and needed the former Civil Marriage Code to remain unchanged, but the testimonies given by people who were actually trapped in marriages are much more powerful than superimposed opinions given by officials whose ideas are far removed from the reality of society.

## 5.2 A few true stories

Jimena Letelier, a physician trapped in a violent marriage for sixteen years, laments after leaving her husband, "I can't divorce him. The law doesn't allow it. I will always belong to him . . . It makes me sick."<sup>125</sup> Jimena was also still married with a man

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Chile." February 2002. Last viewed on 21 March 2004 at [http://www.acdicida.gc.ca/cida\\_ind.nsf/vLUallDocByIDEn/8FC0E492CD4F032385256BF20067D924?OpenDocument](http://www.acdicida.gc.ca/cida_ind.nsf/vLUallDocByIDEn/8FC0E492CD4F032385256BF20067D924?OpenDocument)

<sup>125</sup> Feminist Daily News Wire, "Chilean Feminists Work to Change Divorce Law," *Feminist Majority Foundation Online*, (5 Aug. 1997), [<http://www.feminist.org/news/newsbyte/printnews.asp?id=3711>] Accessed on 12 Sept. 2003.



with whom she did not live, but she was the one to refuse to grant him a formal separation due to her concerns of losing her property.<sup>126</sup> As of October 2003, Jimena and her husband had been married for fifteen years, but had not lived together for the last eleven. He was living with another woman and the five-year-old child they had together.<sup>127</sup>

Karen and her spouse lived 5,000 km apart in 2003, she with another man and their recently born son. Despite her requests for an annulment, her husband hoped for “reconciliation and refused to dissolve the union.”<sup>128</sup> Hilda Mendez also found herself in an undesirable position in 2002. Her husband had left her eight years before that date. Since his departure he had not paid any child support for their two children, and he lived with his girlfriend on land he jointly owned with Hilda. Frustrated, Hilda talked about the house she bought with her own money in an interview with Reese Elrich.

I got this house after we were separated. But he has more rights to it than my own son. I think it’s unjust because he hasn’t given us one peso. There are many other single women in this situation. We can’t get divorced. The man leaves and she’s left to provide for the children. I can’t sell my house because I need his signature. And he won’t give it.<sup>129</sup>

The voices of these women cannot be overlooked, nor can their stories be taken lightly. Jimena and Hilda both faced issues with their ex-husbands, rather, with thier

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<sup>126</sup> This is the reason she gave in the article. It can be inferred that her husband had not already taken advantage of his right to take her property. Again, this is only speculation made based on the information she provided in her statements, but she is probably concerned about losing her property if she pursues an annulment as annulments can only be granted if mutually petitioned. If he did not wish to annul, he could have become angry and seized her property. If an annulment were granted, under the old law men had more rights to the property in the case of the dissolution of the marriage, a condition that has been corrected under the new law. However, because her husband had access to her property if the marriage were or were not annulled, it makes sense that she was wary of pursuing an annulment.

<sup>127</sup> Mark Mulligan, “Chile May Say ‘I do’ to Laws that Loosen the Bonds of Wedlock,” *The Financial Times Limited*, (London: Financial Times, 21 Oct. 2003) p. 4.

<sup>128</sup> *Ibid.*

<sup>129</sup> “Chile Divorce.” *Common Ground Radio*. The Stanley Foundation. 2 July 2002. [<http://www.commongroundradio.org/shows/02/0227.shtml>] Accessed on 7 Nov. 2003.

legal but absent husbands, in regard to property rights. Jimena feared she would lose all by granting her husband a separation, and Hilda was bound to a home she no longer wanted that she bought with her own money because her husband would not give his signature. Because annulments must be mutually requested, Karen, who had moved on with her life, was forced to remain legally married to a man living thousands of miles away. None of these women could even open a bank account without their husbands' signature.<sup>130</sup>

The statistics powerfully reveal many truths about the real state of the Chilean family under a Marriage Code that did not allow divorce, but the testimonies of these women speak volumes. They wanted divorce. They wanted freedom from marriages that no longer worked. They did not want to “belong” to their absent husbands; that thought even made Jimena sick. What the empirical data revealed these women confirmed: it was time for divorce to be legalized in Chile.

### **5.3 Why the delay in the legalization of divorce?**

The battle to legalize divorce was long and tedious. Reformists worked tirelessly towards its legalization while opponents used their power and influence in the government to prevent the law's passage. This March it finally passed. Certain questions arise in relation to the delay. If the majority of the population has expressed a desire for it to pass since 1991 and evidence in the culture implies that the lack of divorce in fact may be hurting many Chilean citizens, why did it take so long for the law to pass after the democratization of the government? Pinochet did step down fifteen years before divorce passed.

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<sup>130</sup> Ibid.

One explanation has to do with the high levels of fear after Pinochet left power. There were many issues in relation to the truth commission on torture during the dictatorship that took the forefront of politics at the time. Also, Pinochet was still the head of the military after he left the presidency, and he made every provision necessary to secure his power after leaving office, such as the provision that “the Commanders-in-Chief of the Armed Forces cannot be removed by the President.”<sup>131</sup> Therefore, for the first several years after democratization, divorce was not an issue brought to the forefront of politics.

A second explanation has to do with the lack of control that Chilean citizens have over who comes to office. The Constitution written under the military dictatorship changed the electoral system to a “binomial” system, which means that “if the main (minority) opposition party gets at least 33.4% of the vote in each district, it is assured of, at least, one half of the parliamentary seats.”<sup>132</sup> Therefore, although the right parties have been receiving less votes since the dictatorship, since they have gotten at least the 33.4%, they are guaranteed a larger percentage of seats than votes they received.<sup>133</sup>

Other factors that contribute to the citizens’ lack of control over who is elected have to do with appointed senators, gerrymandering, and the elimination of almost all possibilities for the Constitution to be changed. In Chile, eight of the total 45 senators are appointed for at least eight years.<sup>134</sup> The appointed officials thereby assured that for at least the first eight years after Pinochet left power, he would have men in the Senate to

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<sup>131</sup> Richard Kimber, “The Chilean Electoral System,” *Political Science Resources*, (Last modified 5 Apr. 2004), [<http://www.psr.keele.ac.uk/docs/chile.htm>] Accessed on 12 May 2004.

<sup>132</sup> *Ibid.*

<sup>133</sup> *Ibid.*

For a more complete understanding of the extremely complicated electoral system, see Appendix C.

<sup>134</sup> *Ibid.*

promote his ideas and block anything against the right. The gerrymandering involved drawing new regional boundaries for elections in order that no region had more voters that were against Pinochet than for him.<sup>135</sup> The final factor, the difficulty of changing the Constitution, is due to the near impossibility of getting two-thirds of Congress in agreement to change it.<sup>136</sup> Because of the appointed Senators, the gerrymandering, and the high ratio of seats that the losing party can receive in proportion to the votes, the chances of the necessary two-thirds to change the Constitution being elected are extremely slim. Therefore, it will be difficult for the people to be able to ever change their electoral system to be more accurately representative of their choices.

Based on information gathered from voting records, a good part of the population is participating politically. In 1997, 9,634,638 people were eligible to register to vote.<sup>137</sup> In 2001, 8,075,446 people were actually registered to vote, 6,991,504 people did vote in the parliamentary elections, giving those elections an 86.6% voter turnout.<sup>138</sup> Since the elections of 1989, more women have participated in the Senatorial elections than men, indicating that not only is there a high voter turnout, but that women are particularly eager to participate.<sup>139</sup> This is important to note as the divorce issue strongly affects women's rights.

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<sup>135</sup> *Ibid.*

See Appendix C under the sub-heading *Chamber of Deputies (at present)* for a more complete explanation of this process.

<sup>136</sup> *Ibid.*

<sup>137</sup> Nation Master. *South America: Chile, Democracy.*

[<http://www.nationmaster.com/country/ci/Democracy>] Accessed on 19 May 2004.

The year 1997 is the most recent year given for voter eligibility.

<sup>138</sup> *Ibid.*

<sup>139</sup> Ministerio del Interior, "Votacion por Pacto Pais," *Informacion Historico electoral*, (1989-2001),

[<http://www.elecciones.gov.cl/indexf.html>] Accessed on 19 May 2004.

See Appendix D.

NOTE: The information in App. D is for the Senate elections, not the entire Parliament. The voting numbers for the lower house of Congress correspond with the numbers given by Nation Master.

In 1997 women occupied nine of the total 120 seats in the lower house of Congress, thirteen in 1999, and presently women fill 15 of the seats.<sup>140</sup> A large percentage of people are voting, and they are slowly changing the gender composition of Congress. This was an important factor in acquiring a divorce law because the electoral system makes it difficult for any side in the political arena to gain the majority of the seats. Therefore, Chilean citizens had to have a large percentage participate in elections to make any sort of changes, however small. The people did collectively try to change the composition of Congress, but the delay in the passage of the divorce law can be partly attributed to the fear immediately after democratization and the obstacles in the electoral system that were placed by the military.

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<sup>140</sup> United Nations Statistics division. "Parliamentary Seats Occupied by Women." *Millennium Development Indicators*.  
[[http://unstats.un.org/unsd/mi/mi\\_series\\_results.asp?rowID=660&fID=r15&cgID=](http://unstats.un.org/unsd/mi/mi_series_results.asp?rowID=660&fID=r15&cgID=)] Accessed on 19 May 2004.

## 6. Conclusion

The battle to legalize divorce lasted for over a century, and its tedious nature required strength and stamina from all parties involved on both sides of the struggle. Both the proponents for the divorce law and opponents worked indefatigably to sway Congress's decision. The proponents of the law persevered despite the many failed attempts over the past hundred and thirty years because they were fighting against tangible conditions in a society that did not match the image presented by the Catholic Church. The Chilean family had been falling away from the traditional image that the authors and supporters of the former Civil Marriage Code strove to preserve through the working of the document. In fact, there was what could be called a family crisis developing in Chile, which became particularly evident in the last decade.

Further suggesting that the divorce law needed to be passed was the fact that a 70% majority of the Chilean population was in favor to the passage of the divorce law, as documented through polls for nearly the last decade, despite the fact that approximately 80% of the same population declared itself Catholic. This discrepancy indicates a certain devaluing of Catholic teachings by even the people who associated themselves with the Church.

Chile was a strained nation being pulled in two directions. The realities of culture and society had transformed the family into an establishment that was not even recognizable by the conservative image so insistently presented by many opponents of the divorce law. What family, then, were the Catholic Church and its allies trying to

preserve? They were trying to protect a Chilean family that, according to statistics and polls, did not exist. Opponents of the divorce law were protecting Chileans from something that that they did not want to be denied. Chile at last has a Marriage Code that better corresponds to the needs of its people.

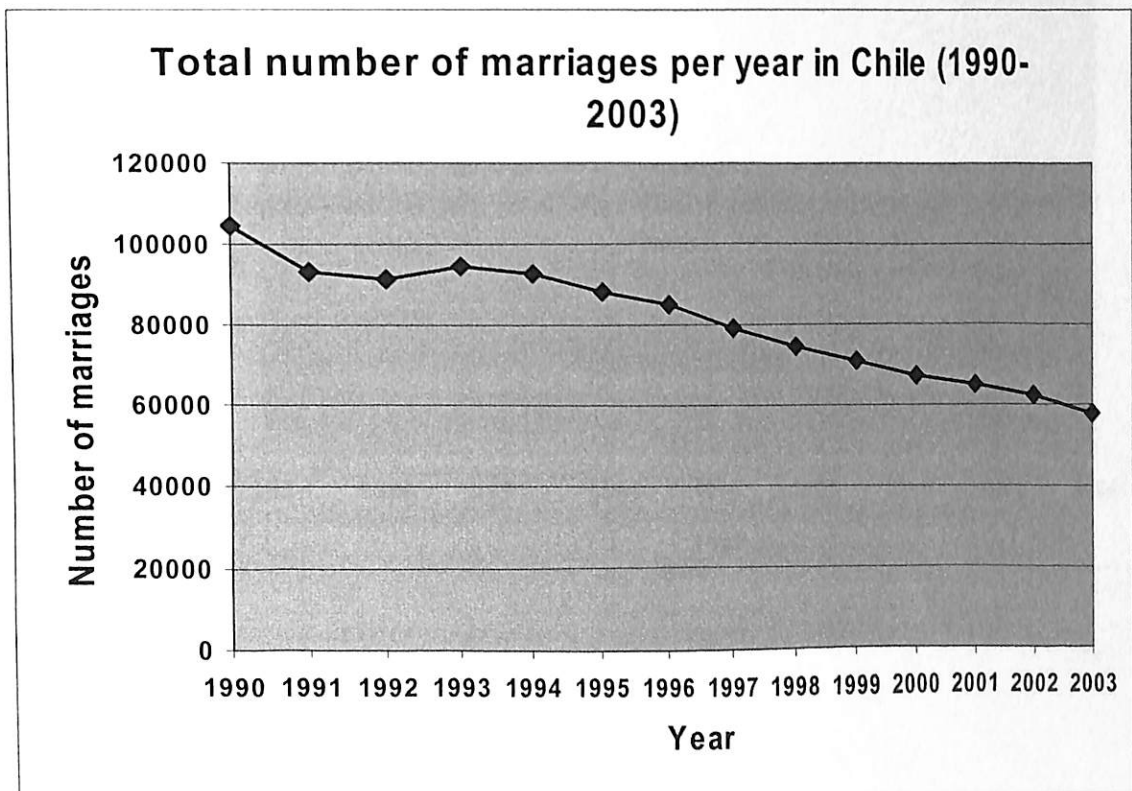
## Appendix A. Timeline

<b>1857</b>	The Conservative Party formed, creating a three party system with the Radicals at the farthest left and the Liberals in the center.
<b>1883</b>	Manuel Novoa, a member of the Radical Party, became the first person to formally oppose the exclusion of a provision for divorce in the Chilean Marriage Code. He proposed to Congress that divorce be included in the code, but his proposal only received two votes of support.
<b>10 Jan. 1884</b>	Chile's National Congress passed the Civil Marriage Code that was to be in effect for nearly 130 years.
<b>1914- 1934</b>	The Radical Party made six more attempts to pass a divorce law. All six attempts failed.
<b>1925</b>	A new Constitution drafted that made the separation of Church and State obligatory.
<b>1964</b>	Ines Enriquez, the first woman elected to Chilean Congress and a member of the Radical Party, proposed to add the option of permanent legal separation that would not end the marriage and was similar to the separation option included in the recently revised Marriage Code. The second suggestion was to legalize divorce in certain cases and even to allow the couple to remarry. Enriquez's attempt failed.
<b>1968</b>	The Radicals made one more attempt to legalize divorce before the political turmoil of the 1970s and 80s.
<b>1970</b>	Salvador Allende of the leftist Popular Union was elected president.
<b>11 Sept. 1973</b>	The military staged a coup that resulted in seventeen-year military dictatorship headed by General Augustus Pinochet. Any former importance the passage of a divorce law held was paled in light of the political turmoil and devastation of those years.
<b>1990</b>	The military dictatorship ended and the process of restoring democracy began.
<b>1997</b>	The fifth attempt to legalize divorce since 1990 succeeded in Chile's Lower House of Congress in 1997 when proposed by congresswoman Maria Antonieta Saa.
<b>Aug. 2003</b>	The bill reached the Senate, which voted with a majority of 33-13 to "take up a committee's recommendation for the bill," meaning that the allotted committee will discuss the possibility of even letting the bill make the debate in the full Senate.
<b>Jan. 2004</b>	The Senate passed the divorce law. This was one of the last steps in the road towards legalization.
<b>12 Mar. 2004</b>	In a dramatic finish to the century old battle for divorce, the Chamber of Deputies ratified the bill 76 to 2, with 20 abstentions. The only step left was for President Lagos to sign the bill, which should come into effect in six months.

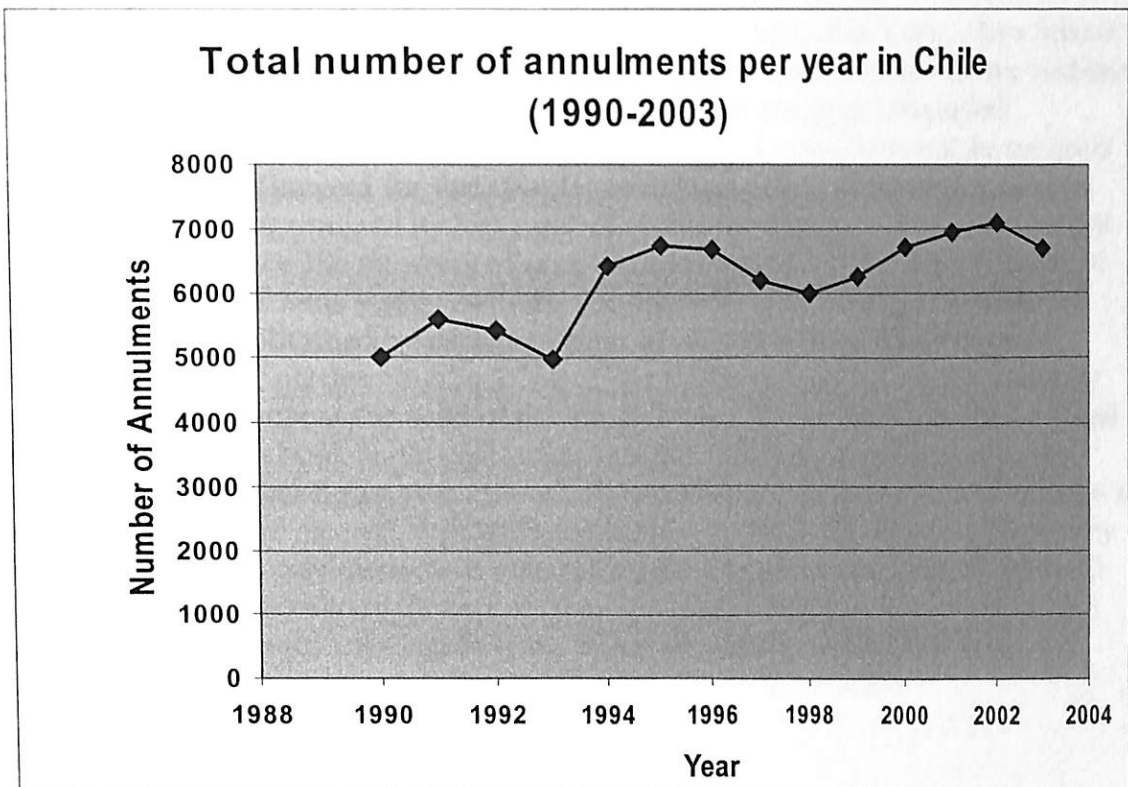


## Appendix B

Year	Number of marriages
1990	104740
1991	93190
1992	91362
1993	94714
1994	92903
1995	88303
1996	85082
1997	79316
1998	74745
1999	70817
2000	67397
2001	65094
2002	62166
2003	57628



Year	Number of Annulments
1990	5014
1991	5619
1992	5447
1993	4996
1994	6427
1995	6744
1996	6686
1997	6202
1998	6001
1999	6255
2000	6716
2001	6938
2002	7085
2003	6679



## Appendix C

### THE CHILEAN ELECTORAL SYSTEM BEFORE 1973

#### Chamber of Deputies (Lower House)

Before 1973, Chile was divided in 29 electoral constituencies for the lower house elections. Each of the then existing 25 provinces represented one multi-seat constituency, with two exceptions: the province of Santiago was divided into four constituencies and Ñuble was divided into two. Each constituency returned a minimum of two members and a maximum of 18. Proportional representation (PR) was used as the electoral system, very much like that in the former Italian system or that used during the brief "reign" of PR system in France, about ten years ago. As in Italy, there was a wide number of political parties, ranging from the marxist left to the conservatives.

An example of the former Chilean electoral system is depicted in Table 1, for a fictional constituency returning five members. Each elector was allowed to vote for one candidate only. Lists were deemed to represent individual parties (or single Independent candidates). Each list could not be compromised by more candidates than the maximum number of seats allocated for that specific constituency (five, in this specific case) but lists could be compromised by less candidates than the maximum. Seats were allocated by simple PR. Once the numbers of seats allocated to each list (party) were calculated, the distribution of seats within each list was done strictly according to the individual number of votes obtained by each candidate. In contrast with the French System mentioned above, parties could not "force" the election of one individual candidate by placing his/her name at the head of the list. In Table 1 elected candidates (B, I, J, M and U) are depicted in bold. In this particular case, the "minimum common denominator" (MCD: In Chile this figure was called "cifra repartidora"), or threshold, for a list to get at least one candidate elected, was 9094 and was given here by the total votes obtained by list 5. This MCD, obviously, was obtained by simple mathematical calculations. List 3, for instance got more than three times this figure and List A got a comfortable margin above the "Threshold". As can be seen, highly popular individuals (as in the case of candidate 1) could carry other members of their list in their coattails.

#### Senate

Before 1973 there were 10 senate districts, each comprising from 1 province (Santiago) up to four. Each district returned five members, the system used being the same one depicted above.

#### Municipal (Council) elections

The same PR principal was applied here. Provincial capitals returned 9 councillors (with the exception of Santiago, which returned 15 and Valparaiso, which returned 12). The other councils returned either 7 (seats of "Departments"; i.e.: an intermediate administrative division) or 5 (all the rest, with the exception of Viña del Mar, which returned 9). Mayors were elected by the councillors but the President had then the prerogative of appointing the mayors of Santiago Valparaiso and Viña del Mar.

### Presidential Elections

There was only one round. Historically, the candidate obtaining the single majority of votes was elected as President. However, constitutionally, if no one had an absolute majority it was the congress formed by the meeting of both Houses that had to choose between the two candidates that got the two highest majorities. In fact, never did the congress chose the second (as it has been the case in Bolivia, for instance) but in 1970 there was strong pressure over the Christian Democrats to opt for Jorge Alessandri. Eventually, that party voted "en bloc" by Salvador Allende. In 1970, S Allende got 36% of the vote, J Alessandri got 35% and Radomiro Tomic got 28%.

Table 1

	<b>List 1</b>	<b>Votes</b>	<b>List 2</b>	<b>Votes</b>	<b>List 3</b>	<b>Votes</b>
	Candidate A	5234	Candidate F	395	Candidate I	25234
	<b>Candidate B</b>	<b>5339</b>	Candidate G	392	<b>Candidate J</b>	<b>2050</b>
	Candidate C	636	Candidate H	799	Candidate K	233
	Candidate D	224			Candidate L	621
	Candidate E	1055			<b>Candidate M</b>	<b>633</b>
<b>Total Votes</b>		12488		1586		28771
<b>List No Elected</b>	1		-		3	
	<b>List 4</b>	<b>Votes</b>	<b>List 5</b>	<b>Votes</b>	<b>List 6</b>	<b>Votes</b>
	Candidate N	2051	Candidate S	2016	Candidate W	939
	Candidate O	2053	Candidate T	3003	Candidate X	1016
	Candidate P	339	<b>Candidate U</b>	<b>3030</b>	Candidate Y	1245
	Candidate Q	938	Candidate V	1045	Candidate Z	235
	Candidate R	2078				
<b>Total Votes</b>		7459		9094		3435
<b>List No Elected</b>	-		1		0	

## THE CHILEAN ELECTORAL SYSTEM AT PRESENT

### Chamber of Deputies (Lower House)

The current system was designed during the last years of the Pinochet regime and was swiftly implemented in the months following the October 1988 plebiscite, which denied Pinochet the opportunity of ruling for another 8 years (on top of the 16½ years he had been presiding over the country). The 1988 plebiscite gave 56% of the vote to the NO option and 44% to the YES option. The NO option was the winner in 11 of the 13 regions and in about 85% of cities and towns over 50, 000 people. There was a strong correlation between the proportion of rural inhabitants of the municipalities and the proportion of votes they gave to the YES option.

During the Pinochet regime the old geo-political administrative division of the country had been altered. The old division was (hierarchically) based on:

- 1) 25 Provinces,
- 2) the intermediate divisions called "Departamentos" and,
- 3) the Municipalities (councils).

Under the new structure, the country was divided into 13 regions. Each region comprised several provinces; the number of provinces, at the time, had been raised to 50. The smallest administrative unit, the Municipality (council) was preserved, the "Departamento" was abolished. The number of municipalities had not changed very much from the pre-1973 era, numbering now about 330.

The fact that Pinochet had lost his plebiscite meant that a presidential election should take place on the following year (December 1989) and that a new parliament (both houses) should be elected simultaneously. Shortly after the plebiscite, the government began to work at a hurried pace to pass a law to define the new electoral system which would be operative in the upcoming elections. As regards the lower chamber, it was decided to lower the number of MPs to 120 (down from 150 in the pre 1973 era), and that there would be created 60 electoral districts, each one returning two MPs (deputies). This system was called the "binominal" (two seat) system. Proportional representation (PR) would be used in all cases.

The upper chamber (Senate) would be composed of 45 members, of which 8 would be "appointed senators" (i.e.: appointed by Pinochet and with an 8-year period). Thirty six senators would be elected by the voters. Depending on the population will be composed by two districts each and the 8 regions with the lowest population will be composed by one district each. The districts would return two senators each, the binominal PR system being applied in this case, too.

The 60 electoral districts for the lower chamber were designed so that - if the results of the 1988 plebiscite were extrapolated to the coming parliamentary elections - in no such district would the NO option duplicate the YES option. The rationale for this - in a "binominal" PR system - was that the voters that favoured the NO option would vote for the Centre-Left coalition and the ones that favoured the YES option would be inclined to vote for the candidates of the right. District elections - in no such district would the NO option duplicate the YES option. The rationale for this - in a "binominal" PR system -

was that the voters that favoured the NO option would vote for the Centre-Left coalition and the ones that favoured the YES option would be inclined to vote for the candidate of the right. District boundaries did, in fact, cross over provincial borders but were always contained within regional borders. The more sparsely populated region, Aysén, with only 60,000 inhabitants would return two MPs for the lower chamber and two senators. The Metropolitan Area of Santiago, on the other end, with more than 5 million people, would return 4 senators (two in each of its two senate districts) and 32 deputies (in 16 districts).

Some district boundaries were kept in suspense for some time. There were bits and ends of land that did not go into any definite district until the last minute. In the end, the electoral map looked very much like the product of gerrymandering. By principle, no municipal council was to be split in the process. Thus, councils with more than 300,000 people did constitute a single electoral district whereas, in some rural areas, the average population of a district (usually formed by several small councils) was about 150,000. This meant that rural districts would exert a disproportionate large effect upon the final composition of the parliament.

Table 2 shows an example of the current Chilean electoral system in a fictional constituency returning two MPs.

Table 2

	List 1	Votes	List 2	Votes	List 3	Votes
	Candidate A	19345	Candidate C	9232	Candidate E	2135
	Candidate B	18976	Candidate D	9987	Candidate F	463
Total votes	38321		19219		2598	
% vote		63.7		32.0		4.3
Elected	Candidate A		Candidate D			

In this case, the "cifra repartidora" was 19219. If list A had obtained 118 extra votes its 2 candidates would have been both elected.

### THE TWO-MEMBER ELECTORAL DISTRICTS IN CHILE

The "binominal" system achieves the opposite effect than the one achieved by the "first-past-the-post" system. The latter exaggerates the strength of the majority party, at the expenses of minority parties. In the "binominal" system, on the other hand, if the main (minority) opposition party gets at least 33.4% of the vote on each district, it is assured of, at least, one half of the parliamentary seats. In Chile, Pinochet's strategists rightly anticipated that the 1989 presidential and parliamentary elections would place the right wing parties in second place behind the centre-left coalition that supported the winning option at the 1988 plebiscite: the NO option. By designing districts where the NO did in no case duplicate the YES vote, they were, at least, assured that an electoral *status-quo* the next year would result in a good electoral return. This was a crucial matter, because

the Pinochet's 1980 Constitution could not be changed unless more than two thirds of the MPs vote in favour of the change. Such laws, as the one that decrees that the Commanders-in-Chief of the Armed Forces cannot be removed by the President - as well as several crucial others - are the crux of the continuing control by the Armed forces (and the right-wing parties behind them) of Chilean political life. For these bodies, getting a parliamentary minority would have amounted to an historical disaster. However, the scenario was well set from the beginning. First, the "appointed" senators would keep the Centre-Left coalition in minority in the Senate, even if this coalition won a plurality of votes. Second, because of the new electoral system, it would have been extremely unlikely that the Chamber of deputies had been composed, in more than two thirds, by MPs from the Centre-Left coalition.

### **The Parliamentary Election**

Eventually, the centre-left coalition ("Concertación") managed to win 72 of the 120 seats of the Chamber of Deputies, with the pro-Pinochet parties winning the other 48. In 12 districts did the Concertación manage to get more than twice the votes obtained by the conservatives, which were somewhat harmed by the presence of scattered groups of right-wing populist lists running parallel. On the other hand, the Communists chose to run their own candidates - sometimes allied with individual candidates from the Socialist party (which officially was part of the Concertación!) - and this deprived this coalition of perhaps 8 to 10 further seats.

In the Senate the Concertación won 22 seats and the conservatives, 16; however the "appointed" senators assured the latter a working majority. By the way, the Chamber of Deputies is elected every four years while only one half of the senate does so, (as if was in the pre-1973 era, too). However, the appointed senators were due to last for at least 8 years.

### **The Presidential Election**

Perhaps the most important change brought about by the new electoral law was the existence of two rounds, as in the French presidential elections. This change was backed by the great majority of the country. It was still fresh on people's minds the memory of the destructive events that followed Allende's victory in 1970, when he got 36% of the vote and parliament had to decide between Allende and Alessandri. At the time, the Commander-in-chief of the Army was assassinated when he adhered to the Constitution with regard to the Army's role in this issue.

The winner in 1989 was Patricio Aylwin, a Christian Democrat, backed by the centre-left Concertación, who obtained 55% of the vote, Hernán Büchi, the former Minister of Finance under Pinochet's, got 29% and Francisco Javier Errázuriz, a millionaire running as an independent, got 16%. Errázuriz, a shrewd populist, managed to sell himself as a self-made man when, in fact, he was the scion of one of the most powerful families from the old Chilean-Basque aristocracy. He also distanced himself from Pinochet after the 1988 plebiscite, saying that he had voted "YES, but with his heart on the NO" (!). He

backed the "independents" that run under the populist ticket in the Parliamentary elections. None of them was elected nor even managed to get more than one fourth of the vote achieved by Errázuriz.

The following are the results of the 1989 Parliamentary elections, district by district.  
SENATE

REGION	DISTRICT	ELECTED	
		CONCERTACIÓN	CONSERVATIVE
First (Tarapacá)		1 (PDC)	1 (RN)
Second (Antofagasta)		1 (PDC)	1 (independent RN)
Third (Atacama)		1 (PS-PPD)	1 (RN)
Fourth (Coquimbo)		1 (PDC)	1 (RN)
Fifth (Valparaíso)	North-East	1 (PR)	1 (RN)
	South-West	1 (PPD)	1 (UDI)
Metropolitan Region (Santiago)	East	1 (PDC)	1 (RN)
	West	1 (PDC)	1 (UDI)
Sixth (O'Higgins)		2 (PDC, PR)	-
Seventh (Maule)	North	2 (PDC, PPD-PS)	-
	South	1 (SD)	1 (RN)
Eight (Bío-Bío)	North	1 (PDC)	1 (UDI)
	South	1 (PDC)	1 (RN)
Ninth (Araucanía)	North	1 (PR)	1 (RN)
	South	1 (PDC)	1 (RN)
Tenth (Los Lagos)	North	1 (PDC)	1 (RN)
	South	1 (PDC)	1 (RN)
Eleventh (Aysén)		1 (PPD)	1 (RN)
Twelfth (Magallanes)		2 (PDC, PS)	-

CHAMBER OF DEPUTIES

REGION	DISTRICT	ELECTED	
		CONCERTACIÓN	CONSERVATIVE
First (Tarapacá)	Arica	1 (PDC)	1 (RN)
	Iquique	1 (PPD, PS)	1 (RN)
Second (Antofagasta)	Tocopilla-Calama	1 (PS)	1 (RN)
	Antofagasta	2 (PS, PDC)	
Third (Atacama)	Copiapó	1 (PDC)	1 (RN)
	Vallenar	1 (PS)	1 (RN)



Fourth (Coquimbo)	La Serena	1 (PDC)	1 (RN)
	Coquimbo-Ovalle	1 (PDC)	1 (RN)
	Illapel	2 (PPD-PS, PDC)	-
Fifth (Valparaíso)	Aconcagua	1 (PDC)	1 (RN)
	Quillota	1 (PDC)	1 (RN)
	Viña del Mar	1 (PDC)	1 (RN)
	Quilpué	1 (PPD)	1 (RN)
	Valparaíso	1 (PDC)	1 (UDI)
	San Antonio	2 (PDC, PPD-PS)	-
Sixth (O'Higgins)	Rengo	1 (PS)	1 (UDI)
	Rancagua	1 (PS-PPD)	1 (RN)
	San Fernando	1 (PDC)	1 (RN)
	Santa Cruz	1 (PDC)	1 (RN)
Seventh (Maule)	Curicó	1 (PDC)	1 (UDI)
	Pelarco-Constitución	1 (PR)	1 (RN)
	Talca	2 (PDC, PS-IC)	-
	Linares	1 (PS-IC)	1 (Indep. RN)
	Parral-Cauquenes	1 (PDC)	1 (RN)
Eight (Bío-Bío)	San Carlos	1 (PDC)	1 (RN)
	Chillán	1 (PS)	1 (UDI)
	Concepción	2 (PDC, PPD-PS)	-
	Coronel-Tomé	2 (PDC, PS)	-
	Talcahuano	1 (PPD-PS)	1 (UDI)
	Lota-Arauco	2 (PDC, PR)	-
	Los Angeles	1 (PPD)	1 (UDI)
	Ninth (Araucanía)	Angol	1 (PDC)
Victoria	1 (PSD)	1 (RN)	
Lautaro	1 (PR)	1 (RN)	
Temuco	1 (PDC)	1 (RN)	
Cunco-Villarrica	1 (PDC)	1 (RN)	
Tenth (Los Lagos)	Valdivia	1 (PDC)	1 (RN)
	La Unión-Panguipulli	1 (PR)	1 (RN)
	Osorno	1 (PDC)	1 (RN)
	Puerto Varas	1 (PDC)	1 (UDI)
	Puerto Montt	1 (PDC)	1 (RN)

Eleventh (Aysén)	1 (PR)	1 (Ind. UDI)	
Twelfth		2 (PAC, PPD-PS)	-
Metropolitana (Santiago)	Pudahuel - Colina	1 (PS-PPD)	1 (UDI)
	Conchali - Renca	2 (PDC, PPD)	
	Cerro Navia - Lo Prado	1 (PDC)	1 (RN)
	Recoleta - Independencia	1 (PDC)	1 (UDI)
	Estación Central - Maipú	1 (PDC)	1 (RN)
	Ñuñoa - Providencia	1 (PDC)	1 (RN)
	Santiago (downtown)	1 (PPD)	1 (UDI)
	Las Condes - Vitacura	1 (PDC)	1 (RN)
	Peñalolén - La Reina	1 (Hum)	1 (RN)
	Macul - San Joaquín	1 (PDC)	1 (UDI)
	La Florida	1 (PPD-PS)	1 (RN)
	La Cisterna - San Ramón	2 (PDC, PS)	
	San Miguel - P. A. Cerda	2 (PDC, PS)	
	Puente Alto - La Pintana	2 (PDC, PPD-PS)	
	San Bernardo	1 (PDC)	1 (UDI)
Talagante - Melipilla	1 (PPD)	1 (UDI)	

PDC: Christian Democrats, PS: Socialists, PPD: Party for Democracy, PR: Radicals, PSD, Social Democrats, Hum: Humanists-Greens, PAC: Centre Alliance, IC: Christian Left, RN: National Renewal, UDI: Democratic Independent Union

The Party for Democracy (PPD) acted like an "Umbrella Party" of a "Functional Party" in order to bring together former members of the Left, of the Centre-left parties and even well-known anti-Pinochet independents so that all these could act together without the constraints of a fixed ideology. In fact, several of his cadres and directives were simultaneously members of the Socialist party, so it is not easy to tell them apart. Together with the Christian Democrats, the party played a pivotal role in the campaign for the NO option in 1988.

The PDC, PS and PPD were the big partners of the Concertación. The PR - the erstwhile powerful party of the Chilean scene, until the early '60s - was now much faded, while the PSD, IC, Humanists-Greens and PAC were very minor partners.

There were not many differences between RN and UDI. The former tended to be composed by members of the old rightist parties (landowners, industrialists, barristers), where the latter originated from the new technocrats and young graduates from the Catholic University that had been Pinochet's most reliable ideologues. These were also fervent advocates of the "integrist" currents in the Catholic Church.

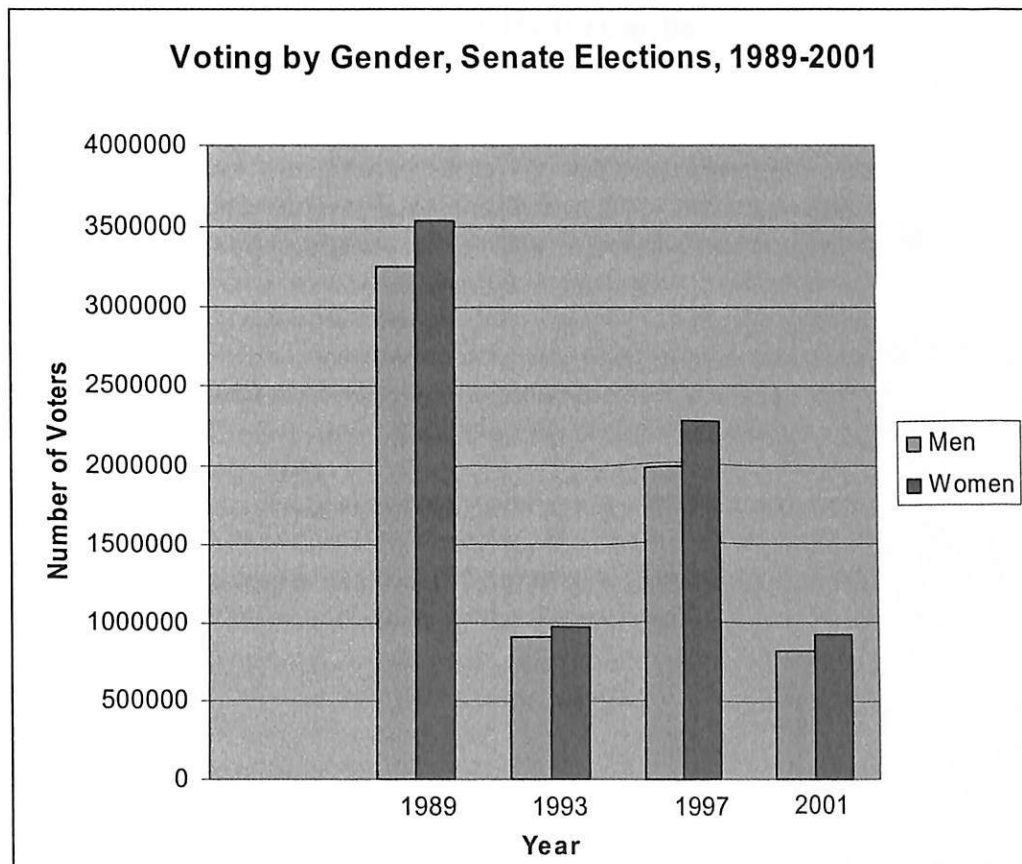
### **Comment on the binominal system**

The existence of the "binominal" system imposed some harsh constraints to the "Concertación", the ruling centre-left coalition. Since each list could not inscribe more than two parliamentary candidates, on each constituency, the "Concertación" parties had to make use of a great deal of self-discipline in order to arrive to a consensus formula for their parliamentary slates. The "Concertación" is composed by three bigger parties and a handful of smaller ones, so in order to give a fair chance to candidates of all parties, each party had to resign to its right of inscribing candidates on every constituency. For instance, the Christian Democrats, the strongest partners in the coalition, inscribed candidates in about three quarters of constituencies, thus opening its smaller partners (Radicals, Social Democrats, etc.) the possibility of filling the remaining slots with their own candidates, which, otherwise would not have had much chances of fighting the elections. The Socialists and the PPD did also have to relinquish their interest of fighting every parliamentary seat and only inscribed candidates in the constituencies where their chances of winning were more favourable. The resulting arrangement deprived the Christian Democrats of winning seats in some of their old strongholds, such as: Quilpué, Magallanes and Talcahuano and the Socialists and PPD to succeed in traditionally left-wing districts, the most conspicuous of all being Lota-Arauco. The agreement, on the other hand, strengthened the unity within the ruling coalition and gave a chance to its smaller parties to enter parliament. Thus, Radicals, were assured of a handful of seats, most notably in Pelarco-Constitución and Lautaro while Humanists saw their high-profile spokesperson, Laura Rodríguez (a young activist, who would die sometime later), elected in an urban neighbourhood of Santiago.

In contrast to the ruling coalition, the Conservative opposition coalition did not suffer the same contingency because it was composed just by two parties: National Renewal and the U.D.I. Thus, either party fought almost all parliamentary seats except when they chose to back an independent instead.

## Appendix D

Year	Men	Women
1989	3,256,844	3,543,566
1993	904,951	969,176
1997	1,964,959	2,274,407
2001	818,249	917,166



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