

3 Struggling for Authority and Influence: the Regulation of Marriage in the Early Post-war Years

Summary 3.1 Introduction. – 3.2 Historical Antecedents. – 3.3 Marriage in the Republic: the Place of Marriage in the Early Post-war Settlements. – 3.4 Defining Family and Marriage. – 3.5 A Patriarchal Republic. – 3.6 At War Over the Family: A Struggle for Faith and Social Relevance. – 3.7 Marriage Socialist Style. – 3.8 An Equal Institution, Under the Gaze of the Socialist State. – 3.9 Catholic Resistance. – 3.10 Conclusions.

3.1 Introduction

Historians of the twentieth century tend to look at marriage within the very narrow remit of the couple, as if marriage mattered only to the two people standing in front of the priest or the registry officer. Moreover, marriage has been often considered as the twentieth century's norm and the battles fought over it in the early modern period (particularly between emerging State authorities and the Church) as something of the distant past.¹

The result has been the neglect of two issues: first, that the legal and symbolic dimensions of marriage go well beyond the narrow circle of the spouses and their offspring; second, that controversies over the nature of marriage and its significance were far from over in the twentieth century.

1 For significant examples of histories of marriage over a long historical perspective, see the seminal Gillis, *For Better For Worse*, as well as Coontz, *Marriage, a History*; Abbott, *A History of Marriage*.

In the aftermath of the Second World War, as in earlier historical periods, the way in which marriage was understood and regulated remained controversial and, in those countries characterised by strong ideological confrontations, became a fertile ground on which to present different visions of society and the place of the family in it.

Post-war Italy and Poland exemplify the broad meaning of marriage and its political relevance. At a time when both countries embarked on far-reaching projects of political and legal transformation, the place of marriage and family life also came under scrutiny. In the search for new legal settlements that accompanied the formation of the two post-war republics, the regulation of marriage sparked a nearly unsolvable conflict between Catholics and secular parties, including Communist ones.

As both Communists and Catholics tried to shape the emerging post-war states in ways that reflected their values and aspirations, they both found in marriage and family life an important terrain of engagement.

In both countries, Communist parties advocated a drastic break with the past, which should involve countries' political and economic structures, as well as social praxes and ways of living. In Poland, post-war Communists saw in the regulation of marriage an important aspect of the social transformations they wished to pursue. The immediate and uncompromising opposition of the Catholic Church was no deterrent. On the contrary, it provided Communists with a means of showing their power.

Italian Communists also advocated a far-reaching transformation of the country's political and social structures, as well as a thorough reform of marriage and family life. Unlike their Polish comrades, however, they quickly realised that power relations were not in their favour and swiftly decided against pursuing reforms likely to upset the Catholic Church.

The outcome was paradoxical, if not perverse. The PCI's restraint in the field of family policy did not stop the attacks of the Church, but helped to undermine the credibility of the Communists' demand for a clear break with the past. Communists' *de facto* acceptance that in the new republican state family matters would continue to be regulated by fascist legislation introduced an institutional and legal continuity that questioned the supposedly anti-fascist character of the post-war Republic.

If in Italy a strong and aggressive Catholic Church put the Communists on the defensive, the opposite was true in Poland, where the Church quickly found itself under attack. A legislative void dating back to the reunification of the country in 1918 offered Polish Communists the opportunity to introduce a sweeping reform of marriage

legislation already in 1945.² By asserting the power of the State in a realm historically under the control of the Church, Polish Communists showed their determination to break with the past and push the Church to the margins of the political realm. Paradoxes, however, were not absent in Poland either.

While an apparently obvious political victory for the State, the reform of 1945 provided the Church with a strong platform on which to campaign against the new government. Far from silencing them, the reform of marriage offered Polish catholic hierarchies a powerful instrument of propaganda that would come back to haunt the government for years to come.

Both the far-reaching reforms of family life pursued by Polish Communists and the lack of intervention that characterised Italy's democratic transition carried practical and symbolic consequences that went far beyond the limits of the domestic sphere.

3.2 Historical Antecedents

Both in Italy and in Poland, the issue of marriage regulation had represented a central aspect of the confrontation between political and religious authorities, at least since national reunification.

In the mid-19th century, the newly formed Kingdom of Italy had sought to establish its authority over marriage as part of a broader effort to affirm a secular notion of the State.

Respectful of "the conscience of each citizen" and determined to keep out of religious matters, the new State recognised as legally valid only those marriages that were "communicated by the Spouses [*sic*] to the State itself, in front of the registry officer".³ Introduced by the Pisanelli Code in 1865, universal civil marriage was immediately condemned by the Church. This was not surprising. Only one year earlier, the First Vatican Council had stated that civil marriage was unacceptable and, in 1865, Pius IX included it among the *Errors of Our Times* condemned by the Church.⁴ The conciliatory gestures

² Poland's return to independence in 1918 did not bring an homogenisation of the different matrimonial regulations introduced during the partition era; efforts to produce a unitary code were repeatedly frustrated throughout the interwar period.

³ Quoted in Ungari, *Storia del diritto di famiglia in Italia*, 157-8. On the genesis of the new code, Acquarone, *L'unificazione civile e dei codici*.

⁴ The *Syllabus complectens praecipuos nostrae aetatis errores*, promulgated by Pius IX together with the encyclical letter *Quanta Cura* on 8 December 1865, contained a list of 80 errors condemned by the Church; within these, ten prepositions concerned the Christian marriage and the dangers brought to it by liberal thought. Civil marriage was strongly condemned in Leo XIII's encyclical letter *Arcanum divinae sapientiae*, promulgated on 10 February 1880.

included in the Pisanelli Code, first among them the banning of divorce for all marriages, failed to appease the Pope.⁵

For the first and nearly last time in the history of Italy, the Pisanelli Code tried to assert the right of the State to regulate marriage as the secular “foundation of family and Nation [*sic*]”, while declaring it “incompetent” in respect to its sacramental nature.⁶ While the Church’s condemnation of civil marriage endured, the issue seemed to die down in the following years, to the extent that, as Carlo Jemolo noted, the political programme of the first catholic party, officially formed in 1919, failed to raise the question.⁷

The situation, however, changed during the Fascist years. Mussolini’s determination to forge a new alliance with the Church, bringing to an end a conflict that had endured since unification, proved of great consequence as far as marriage was concerned. In early 1929, the conflict that had opposed State and Church since the reunification of the country, and particularly since the proclamation of Rome as its capital in 1870, was finally overcome. With the Lateran Accords, signed on February 11, 1929, the Pope recognised the Kingdom of Italy and surrendered his claims to Rome. In exchange, the Church was granted a number of privileges, which included the proclamation of Catholicism as the sole religion of the State and the recognition of the civil value of the marriages celebrated in accordance to Canon law.

Rejecting the secular prerogatives pursued in the aftermath of unification, the State was now willing to endorse the sacramental nature of catholic marriage. In the words of article 34 of the new agreement: “The Italian state, wishing to restate to the institute of marriage, which is the basis of the family, a dignity conform to the catholic traditions of its people, recognises civil effect to the matrimonial sacrament disciplined by Canon law”.

The ‘concordatary marriage’ helped to mitigate the conflict between Church and State and reflected the significant convergences that existed between fascists and catholic authorities over family and gender relations. Fascists and Catholics shared a vision of the family as a hierarchal and patriarchal institution, in which women’s rights were rigidly anchored to their marriage position and subordinated to their husband’s entitlements. Although for different reasons,

⁵ The impact was particularly strong in the north of the country, where the pre-unitarian codes had included the institution of divorces for civil and non-catholic marriages. On the heated parliamentary debates that accompanied the reform, see Jacini, *La crisi religiosa del Risorgimento*, and Ruffini, “La codificazione del diritto ecclesiastico”.

⁶ Torelli, *Lezioni di Storia del Diritto*, 106. Since the Pisanelli code allowed civil registration to take place after the religious celebration of marriages, religious only marriages remained common in post-unification Italy, see Ungari, *Storia del diritto di famiglia*, 184.

⁷ Jemolo, *Chiesa e stato in Italia*, 189.

they also shared a predilection for large families, seeing maternity as women's first duty and only social dimension.⁸

The recognition of Catholicism as religion of the State and the agreement found on the concordatarian marriage guaranteed the Church a position of absolute privilege in the regulation of family life, which it fought hard to retain in the post-war years.

As in pre-unification Italy, several systems of family law had operated in Poland during the Partition era. By the time of reunification, four major codes existed, giving different rights and duties to married couples and their children.

In western Poland, once under Prussian control and governed by the German code of 1896, civil marriage was compulsory for all and ordinary courts held authority over family matters, including the possibility of granting divorce. In the eastern part of the country, by contrast, ecclesiastical authorities maintained full control over matrimonial jurisdiction in accordance with the Russian law of 1840. Catholic marriages were regulated by Canon law, with civil law applying only to mixed marriages and transfers between denominations. In southern Poland, ecclesiastical marriages were recognised by the Austrian Civil Code of 1811; divorce was prohibited for Catholics, but allowed for other religious groups. In 1868, civil marriage was introduced in Austrian territories for the cases in which a clergymen refused to perform a marriage, for reasons other than those recognised in the Civil Code. The remit of civil marriage was expanded in 1870 to include denominations not recognised by the State.⁹

Finally, no civil marriage had existed in Congress Poland, where Catholics and Uniates were allowed to get married according to Canon law, while marriages among Protestants were treated according to the provisions for foreigners residing in Russia.

The reunification of Poland in 1918 presented the new State with a puzzle of legal arrangements difficult to harmonise in a country of deep religious and cultural diversity.

The treatment of marriage in the March Constitution of 1921 illustrated the difficulty of settling the matter in a way that could satisfy both State and Church.¹⁰

⁸ On the convergences between fascist and catholic notions of family life, see among others Willson, *Women in Twentieth Century Italy*, 61-95.

⁹ On the legal organisation before 1939, Gawrońska-Wasilkowska, *Małżeństwo*, 5-6, Siekanowicz, "Poland", 2: 1337, also Rosada and Gwóźdź, "Church and State in Poland".

¹⁰ See for instance Wynot, "Reluctant Bedfellows", 93-4. Within the constitution of 1921, the Catholic Church was granted the status of "primus inter pares"; as such the Church received a number of privileges, first of all the right to provide religious training in all state schools. No formal definition of State-Church relations was however provided in the Constitution. On the reaction of the Polish Church to the Constitution, Porter, *Faith and Fatherland*, 172-3. See also Pease, *Rome's Most Faithful Daughter*.

Although civil marriage was introduced for those who did not belong to any religion, the State refrained from establishing universal norms over marriage. In 1926, a proposal to introduce universal civil marriage, which also envisaged provisions for nullity, divorce and separation under the jurisdiction of civil courts, was blocked by the uncompromising opposition of the Church. For its part, the Concordate signed between Poland and the Holy See in 1925 sanctioned the privileged role of the Catholic faith and of Catholic institutions (granting special entitlements to the Church in terms of education, property and taxation), but did not introduce an equivalent of the Italian Concordatarian marriage.

The legislative interventions carried out during the war by occupying powers complicated the situation further. In eastern Poland, in particular, the Soviet occupation brought with it a disavowing of the authority of the Church that directly affected marriage. Ecclesiastical marriages were declared invalid, together with birth certificates issued by Churches; in April 1940, all churches were ordered to deposit marriage and birth records in the state record offices. Priests were no longer allowed to celebrate marriages. Soviet divorce legislation was extended to the occupied territories. This would set the model for the post-war reform.

3.3 Marriage in the Republic: the Place of Marriage in the Early Post-war Settlements

Both in Italy and in Poland, the return to peace coincided with the creation of new political and institutional structures, set to depart radically from the past. Although the conditions under which the two processes took place differed greatly, a number of common issues existed, as far as the family was concerned.

In Poland, the coming to power of Communists promised (or threatened) an overall transformation of social and economic relations that would inevitably include a radical reform of family life. In Italy, the creation of an anti-fascist republic posed the question of how to deal with the cumbersome legacy of Mussolini's regime in relation to family and gender relations.

In both cases, the issue of how to deal with family life in the process of political reorganisation directly engaged the relationship between the State and the Church, bringing into question the many entitlements enjoyed by the latter in relation to family matters. In a Poland rendered uniformly Catholic by the ethnic cleansing that had accompanied the war, the Catholic Church faced the prospect of having achieved near absolute control over marriage matters. This, as we have seen, was already the case in Italy. It was a position of control that the Church was determined to retain. The task, however, presented very different challenges in the two countries.

In Italy, one of the trickiest issues that the post-war republic had to confront concerned the question of what to do with fascist legislation. This was a far-reaching issue, which involved most aspects of the country's political and legal structures.

A specific part of this general problem concerned the question of whether the Lateran Agreements, signed between the fascist government and the Holy See in 1928, should find room in the new Constitution. The question went to the core of the relationship between State and Church and threatened to split the Constituent Assembly formed in June 1946.

Defending the institutional prerogatives granted to the Catholic Church in the Lateran Pacts, and therefore promoting an approach to State-family relations in tune with catholic sensitivities, constituted the central pillar of the Christian Democratic Party's strategy within the Constituent Assembly.¹¹

The Church's privileges were opposed by the representatives of a broad political constituency, which stretched from the Socialist to the Republicans, Liberals and Action party (known in Italy as *partiti laici* or secular parties). Divided on almost every issue, these diverse parties shared a desire to defend the prerogatives of the secular State. Since they represented a minority within the Assembly, their chances of seeing the instances of laicity affirmed depended mostly on the support of PCI.

Within the Constituent assembly, the PCI could count on 104 seats and the Socialist Party on 114. The Christian Democrats (DC), by contrast, could count on 207 seats.¹² If on a number of issues related to the economy or the architecture of the State, Christian democrats could count on a safe majority, thanks to the support of smaller moderate parties, on issues such as the relationship with the Catholic Church or the modernisation of family relations, left-wing parties could win the vote.

The PCI, however, proved extraordinarily reluctant to move in this direction.

The goals pursued by the Communist Party led by Palmiro Togliatti were not straightforward. Having started as a radical revolutionary party, the strategy of the PCI had undergone a fundamental transformation since Togliatti's 'democratic turn' of 1944. In the aftermath of the war, the party faced the challenge of trying to define its political agenda in a country in which international and domestic factors made not only the revolution, but even the acquisi-

¹¹ Martina, *La Chiesa in Italia*; Scoppola, *La proposta politica di De Gasperi*.

¹² The fourth political group was represented by the Liberal party, with 33 seats followed by the Fronte dell'Uomo Qualunque with 30, and by the Republican party with 23 seats.

tion of a solid parliamentary majority a very uncertain prospect.¹³

Having abandoned any revolutionary ambition, Togliatti's efforts concentrated on establishing the political basis that could allow the party to pursue what he defined as a 'progressive democracy': a democratic system characterised by a degree of economic planning, nationalisations, redistributive social policies, and the partial subordination of private property to the pursue of common interests.¹⁴

The alliance with the Catholic party seemed to Togliatti necessary to realise an Italian road to socialism that kept into account "the particularities, traditions and conditions" of the country.¹⁵ Even more importantly, Togliatti was convinced that many among Catholic workers and even among the Catholic middle classes desired social and economic transformations compatible with the Communist project. In order to successfully penetrate society, it was therefore essential not to antagonise ordinary Catholics; to them the party should appear as a legitimate political force and not like a dangerous enemy.¹⁶

Togliatti's determination to protect the fragile alliance that existed between the 'anti-fascist' forces and his stance on the Catholic question go a long way to explain the approach taken by the PCI in the Constituent Assembly in relation to the Church, family life and gender relations.¹⁷ Nothing like the position taken by the party on the Lateran Accords demonstrated Togliatti's determination to keep the dialogue open with the catholic forces.

Having initially opposed the inclusion of the agreement in the constitutional text, Togliatti changed his mind as the vote on the relevant article approached. Against the strong protests of Socialists, Action and Republican parties, the PCI voted in favour of the inclusion of the Lateran Accords in the constitution (art. 7), "in the interest of the unity of workers and of religious peace".¹⁸ In this way, the Communists became directly responsible for the incorporation of a central piece of fascist politics in the founding document of the new republican state. Article 7 was variously denounced as a breach of freedom of conscience and religion and as the obvious demonstration

13 On the impossibility of pursuing a revolutionary road to power in 1945, Sassoon, *The Strategy of the Italian Communist Party*, 31-3. See also Pajetta, "Dalla liberazione alla repubblica", 90-9.

14 Sassoon, *The Strategy of the Italian Communist Party*, 42.

15 Palmiro Togliatti, "La nostra lotta per la democrazia e il socialismo", quoted in Sassoon, *The Strategy of the Italian Communist Party*, 36.

16 On the cultural roots of Togliatti's understanding of the Catholic question, Gundle, *Between Hollywood and Moscow*, 50-1.

17 Ginsborg, *A History of Contemporary Italy*, 101.

18 "Nell'interesse dell'unità dei lavoratori e della pace religiosa il Partito Comunista Italiano aderisce a votare l'articolo 7". *L'unità*, 26 marzo, 1947. See also Catalano, *Sovranità dello Stato autonomia della Chiesa*.

of the State's acquiescence to the Church. Against such criticisms, Togliatti's insistence that the Concordate provided a useful instrument for international and national politics sounded woolly and unconvincing. It was a position nearly indistinguishable from that of the DC and in sharp contrast with the PCI's overall rhetoric and declared ambitions of modernising the country, freeing it from the undemocratic inheritance of the past.¹⁹

Irrespective of whether Togliatti's decision was the result of mere political opportunism or of a sincere conviction that the Communist and catholic masses should not be set against each other, the Communist vote undermined any real possibility of limiting the influence of the Church in Italy, starting with family matters.

3.4 Defining Family and Marriage

The relationship between the State and the Catholic Church was not the only issue on which the PCI was willing to compromise.

Routinely accused by the Church of being a natural enemy of Italian families, the Communists missed no opportunity to underline their commitment to the family as the foundation of Italian society and to deny any intention to pursue radical reforms in the field of family and marriage legislation. As Togliatti had explained in his speech to the first conference of women Communists, in June 1945, the PCI was committed to renew and modernise the family, but without undermining its unity and strength. To start with, the modernisation that Togliatti was willing to pursue did not include divorce.

If the double commitment to defend and modernise family life sounded convincing in a speech, however, transforming it in political action was a far trickier matter. This became painfully obvious in the work of the first subcommittee of the Constituent Assembly, in charge of working out the constitutional relationship between the family and the new State.

The most vocal representative of the DC in the sub-committee was Giorgio La Pira, a highly respected representative of the faction of the party that was most committed to making the social teaching of the Church the basis of political action.²⁰ A religious and spiritual man, La Pira proved an eloquent and determined advocate of the State's duty to uphold a notion of the family informed by the teaching of the

¹⁹ Terracini, *Come nacque la Costituzione*; Calamandrei, Levi, *Commentario sistematico alla Costituzione*.

²⁰ On Giorgio La Pira, see among others, Campanini, *Fede e politica*; Pombeni, *Il gruppo dossettiano*; La Pira, *La casa comune*; La Pira, *La nostra vocazione sociale*; La Pira, *Architettura di uno stato democratico*.

Church. La Pira understood society as developing organically in an ordered and growing series of social entities that went from the family to the religious community;²¹ he believed the state had the role of guaranteeing the free and ordered development of those social entities, never undermining their natural rights and prerogatives.

Accordingly, La Pira advocated for the insertion in the Constitution of a definition of the family as *unità naturale* (natural unity), preceding the State in time and based upon immutable principles. La Pira also stressed that marriage, the only basis upon which a family could be formed, should be seen first as a sacrament and only secondarily as a legal institution. As such, the Church should retain full authority over marriage and family life. Faithful to a vision of marriage as an institution resting on clear and unchangeable hierarchies, La Pira opposed the principle of the equality of the spouses, arguing instead for the primacy of the father-husband.

Whilst the PCI and other secular parties were ready to accept a definition of the family as “basis of the material and moral prosperity of the nation”, they resisted the notion of marriage as a hierarchical institution and La Pira’s call for different rights recognised to men and women. The issue that raised the greatest disagreements within the subcommittee, however, concerned marriage durability.

Although divorce never became central to the discussion of the Constituent Assembly, largely as a consequence of the PCI’s unwillingness to pursue the issue, the DC campaigned vigorously for the introduction of the principle of marriage indissolubility in the Constitutional text.²² The formula defended by the DC, according to which the law should “regulate the legal condition of the spouses, with the aim of guaranteeing the unity of the family”, provoked significant disagreements, but was eventually approved in the subcommittee’s final vote, held on November 13, 1946, after a lengthy discussion.

To the Christian Democratic defence of indissolubility as a matter of principle and faith, the Communists tried to respond with pragmatic arguments. The unwillingness to touch the issue of divorce, however, resulted in an ambiguity that the Communists were unable to solve. On the one hand, Togliatti’s party stressed that the breaking down of marriages (for instance as a result of wartime disruption) could not be solved by declaring marriage indissoluble. On the other hand, they *de facto* accepted the idea of marriage indissolubility, by refusing to bring to the table the issue of divorce. It was an ambivalence that fatally undermined the party’s credibility.

21 See in particular La Pira’s speech at the Constitutional Assembly on the 9th September, 1946, *Assemblea Costituente, Commissione per la Costituzione. Prima Sottocommissione. Resoconto Sommario della Seduta di lunedì 9 settembre 1946*, 14-15.

22 Azzariti, *L’indissolubilità del matrimonio*.

The definition of the family as “a natural society based on indissoluble marriage” eventually voted by the subcommittee marked an obvious political victory for the DC. This unambiguous reference to ‘indissolubility’, however, sparked off resistance within the Assembly. In the week-long discussion that preceded the final vote on what would become Article 29, the relationship between family and State was examined from different perspectives and according to different political sensitivities. Liberals argued that the family should be left out of the Constitution; Catholics defended a definition of family in accordance with the teaching of the Church; socialists and Communists (particularly through their women representatives) declared the duty of the State to help Italian families to free themselves from the damaging inheritance of the fascist years, becoming equal and democratic institutions. Even the most lucid analyses coming from the left of the Assembly proved unable to avoid the ambiguity produced by Togliatti’s determination not to break with Catholics over marriage.

On 21 April 1947, the Communist Maria Maddalena Rossi presented the Constitutional Assembly with a far-reaching analysis of the situation of marriage in post-war Italy. Rossi convincingly illustrated the many instances in which no legal prohibition could prevent marital breakdown and the many cases in which the impossibility of divorcing worsened the predicament of those condemned to marriages that no longer existed in reality. She recalled the plight of the children of illegitimate families and the sufferance of those who, having been abandoned by their spouses, could not free themselves from their marriages’ legal ties. For all these people, argued Rossi, the possibility of legally ending a marriage that no longer existed in reality would have amounted to an act of humanity; the Church demonstrated to understand this, through its increasingly inclusive approach to the question of annulments.

These faultless premises suggested only one logical conclusion, namely that the question of divorce was indeed a relevant one in post-war Italy. Rossi, however, did not reach such conclusion. Political opportunity (or opportunism) dictated otherwise. Although reasserting that the PCI objected to the inclusion of the principle of marriage indissolubility in the Constitution, Rossi reassured her audience that Italian Communists had no intention to bring up the issue of divorce, since this was not ‘felt’ as a pressing issue by the majority of Italians.²³

Against the intransigent coherence of the likes of La Pira, such a position appeared hollow and contradictory. It was a stance dictated by political concerns, which had little chance of asserting it-

23 “Critica dei comunisti all’art. 24. Maria Maddalena Rossi parla alla Costituente”. *L’Unità*, 22 Aprile, 1947.

self against a catholic position that could appear at odds with social reality, but which had at least the merit of ideological consistency.

In the end, it fell upon the socialist deputy Umberto Grilli to avert the introduction of the indissolubility principle in the Constitution, thanks to a last minute amendment that forced Togliatti to take the clear position he had determinedly tried to avoid. Voting against Grilli's amendment would have been unthinkable. Thanks to a very narrow majority (194 vs 191 votes), the word indissoluble did not make it into the Constitution, leaving the door open to future legislation on divorce. We will come back to this in chapter 5.

3.5 A Patriarchal Republic

On the whole, the place given to the family in the Constitutional text responded to some of the instances put forward by the PCI and other secular parties, but represented in many ways a catholic victory. In its final formulation, art. 29 defined the family as "a natural society founded upon marriage". The article both endorsed and denied the equality of the spouses, by declaring that marriage was based on "the moral and legal equality of the spouses", but "within the limits established by law in order to guarantee the unity of the family itself". The distinction between legitimate and illegitimate children, propounded by La Pira as essential to safeguard the family "as a moral and juridical institution" based upon a "moral bond", was also preserved in the final text, with the rights of natural children subordinated to the protection of the rights of the legitimate family (art. 30).²⁴

The full scale of the catholic victory appeared when the Constitution was read in combination with a Civil Code written by fascist legislators and adopted unchanged by the Republic. The Rocco Code, introduced in 1940, guaranteed husbands' right to choose the family's place of residence, established a different legal treatment for male and female adultery, and maintained the existence of unequal parental rights.

Unmarried mothers had the right to acknowledge a natural child, but this did not modify the legal definition of the child as 'illegitimate'. Married women, by contrast, could neither acknowledge a child fathered by a man other than their husband, nor reveal the name of the natural father. Even when separated, their husbands retained paternity rights unless they renounced them. Natural fathers, on the contrary, had the power to acknowledge a 'natural' child independently of the will of the mother. In Chiara Saraceno's words, the acknowledgement of the offspring was a right negotiated among men, without any power left to the mother.²⁵

²⁴ Rodotà, "Il diritto di famiglia", 161-206.

²⁵ Saraceno, *Mutamenti della famiglia*, 41.

As Anna Rossi Doria observed, the familist culture that dominated post-war Italy did much to reduce the rights promised to women by the Constitution.²⁶ Despite its rhetorical statements, the PCI contributed significantly to preserve such culture.

Togliatti had often insisted that his vision of a progressive democracy included the necessary emancipation of women from a condition of inferiority that the fascist years had done much to perpetuate. The legal settlement that came out of the Constituent Assembly marked a double defeat of Togliatti's agenda for social change. Not only had the Communists proved unable to put forward a model of family life alternative to that of the Catholic Church, but they had decided to compromise on the very issue on which their credibility depended, namely their anti-fascist credentials.

Catholics had good reasons to be proud of their achievements. In 1955, the catholic jurist Domenico Barbero aptly commented that, "if the Union of the Italian Catholic Jurists had been called to write the Constitution", they could not have adopted "a judgement more consistent with the dogmatic principles and the aspirations of Catholics". Reading the articles of the Constitution dealing with marriage and family was "like reading a passage from the social doctrine of the Church translated in founding norm of the State".²⁷ By the mid-fifties, it seemed undoubted that, in Italy, the Catholic Church had won the confrontation over the place of the family in Italian law.

3.6 At War Over the Family: a Struggle for Faith and Social Relevance

A very different situation existed in Poland. In September 1945, the introduction of universal civil marriage demoted religious marriages to a private affair of no legal significance. The new Marriage Law, passed by decree and effective from January 1, 1946, envisaged the possibility for men and women to marry at 18, introduced divorce, and spelled out the reciprocal rights and duties of the spouses, in accordance with socialist morality and the overall interest of the socialist nation. It also relieved clergymen of the function of keeping records, the responsibility of which passed to State authorities.

The 1945 legislation found final systematisation in the new Code on Domestic Relations approved in 1950, which among other things established the absolute equality of husband and wife, in strong dis-

²⁶ Rossi Doria, "Le donne sulla scena politica", 846.

²⁷ Barbero, *Matrimonio fondamento della famiglia*, 66.

continuity with pre-war legislations.²⁸

As the British family law expert Olive M. Stone noted in 1967, against the messy legal background that had existed in Poland in 1945, one was tempted “to applaud unreservedly the abolition by the Provisional Government in 1945 of the religious form of marriage and the imposition of a uniform civil ceremony upon the whole country”.²⁹ There is little doubt that Stone’s virtual applause would have to be qualified in the light of Poland’s rapid descent into an autocratic system that would dramatically affect both the administration of the law and the realities of family life. It is equally difficult, however, not to recognise the importance of a reform that redefined marriage as a secular institution founded on the equality of the spouses and regulated by the same laws across the country.³⁰

The reform of 1945 represented a clear moment of modernisation and democratisation of family life; that this should happen in the same period that marked the country’s descent into tyranny could seem a paradox. In fact, this suggests that perhaps one should be careful in drawing too easy unidirectional connections between the nature of political systems and the treatment of family life. Political democratisation and the democratisation of family life do not necessarily proceed hand in hand.

The reaction of Polish catholic authorities to the plans for reform circulated since early 1945 leaves no doubt as to the concerns raised.

As Pius XI had asserted in 1930, the sacramental nature of marriage constituted “an immutable and inviolable” part of catholic doctrine, from which no derogation could be admitted. In the eyes of the Church, matrimony was a divine institution: God himself was the source of the “perpetual stability of the marriage bond, its unity and its firmness”. This was a fundamental tenet of the catholic faith, which went back to the Council of Trent, and could not be questioned.³¹

While catholic members of the Italian Constitutional Assembly fought to have the law of the Church enshrined as law of the State, in the spring and summer of 1945 Polish bishops and the Catholic press mobilised against a reform bound to undermine the very notion of catholic marriage.

28 *Dziennik Ustaw*, nr. 34 (1950), 308-9. While radically changing the norms that had regulated marriage in pre-war Poland, the 1945 legislation found inspiration in the 1926 draft law that had never seen the light, mostly thanks to the intransigent opposition of the Catholic Church to the introduction of divorce.

29 Stone, “Review of “Polish Family Law”, 1033.

30 As Zofia Gawrońska-Wasilkowska, noted, the very notion of “secular marriage” was introduced in Poland in the aftermath of Second World War. Gawrońska-Wasilkowska *Małżeństwo. Istota-Trwałość - Rozwód*, 11-12.

31 Pius XII, Encyclical letter *Casti Connubii*, par. 5.

In 1945 Poland, as in 1865 Italy, the Church condemned universal civil marriage as akin to State concubinage, as a measure designed to diminish if not eliminate catholic influence from the public sphere, and as a clear “breach of religious freedom and of freedom of conscience”.³²

Even a magazine open to matters of social reform and keen to keep politics out of its pages, such as *Tygodnik Powszechny* [Universal Weekly], saw little possibility of openings over the marriage issue. Since for Catholics no marriage could exist that was not “by the same token and simultaneously” a sacrament, no marriage contract stipulated outside the Church could be considered of any validity; no successive blessing could remedy the initial fault. As several of the contributors to the magazine noted, universal civil marriage put Catholics outside the pale, banning them from sacraments, excluding them from the possibility of performing the required religious rites, and even excluding them from burial in consecrated cemeteries after death.³³

Memoirs testified the strong reactions that civil marriage could provoke among Catholics, and the very different reception that the reform had among different generations. A memorialist who wrote under the pen name of ‘One of many’, remembered the anger of her and her husband-to-be’s parents at the news that they had decided not to marry in the Church. “For this reason too, this religious family decided to withdraw the financial help they had promised us”. The couple did not go back on their plans, settling instead for a modest wedding, and borrowing money from friends.³⁴ In very similar tones, ‘Julianna’ remembered her mother “reproaches and cries” at the news that her daughter “was going to have just a civil marriage”.³⁵

At a political level, in the spring and summer of 1945, the decision by the Provisional Government to intervene swiftly and unilaterally on marriage legislation increased the tensions that already existed between the new Polish authorities and the Church and further complicated a situation that was already far from straightforward. From Rome, the Pope had showed clearly his unwillingness to enter into any dialogue with the new government of Poland. Pacelli had supported the government in exile during the war and continued to do so. He supported Polish bishops in their resistance to the Communist attempt to create a Polish Catholic Church independent of the Holy See. Lines of conflict between the Polish Episcopate and the Holy See, however, were provoked by the Vatican’s refusal to redraw dioc-

³² Ks. E. Ch., “Małżeństwo cywilne” (Civil marriage). *Tygodnik Powszechny*, 29 April, 1945, 4.

³³ Ks. E. Ch., “Małżeństwo cywilne”. *Tygodnik Powszechny*, 29 April, 1945, 4. See also Halecki, *Poland*, 206.

³⁴ “Chcieliśmy jak najczęściej”. *Moje małżeństwo i rodzina*, 81-2.

³⁵ “Nauczeliśmy się być we dwoje w trudnych chwilach”. *Moje małżeństwo i rodzina*, 90.

esan lines in Poland's newly acquired western land, which the Vatican continued to consider under the jurisdiction of German bishops.³⁶

The immediate post-war years were characterised in Poland, both by a tentative dialogue and by an emerging confrontation over the legal position of the Church and its role in public affairs.³⁷ In this sense, the fight over marriage was on all counts also a struggle for power and influence. As several Catholics feared, the aim of the reform was not only to displace the Church's authority over marriage, but to reduce religion to a private affair.³⁸

The argument went to the core of Pius XII's concerns. Throughout his pontificate, Pacelli called the faithful to reject the idea that the authority of the Church should be limited to religious issues or excluded from political decisions. As he kept repeating, social problems concerned the conscience and salvation of men and, as such, they involved the Church. Polish catholic commentators agreed and stressed that Catholicism could not abandon its social role without losing its very essence.³⁹

The question of civil marriage engaged both theological and temporal issues, raising the fear that what was taking place was nothing less than the beginning of a transfer of authority over moral matters from the Church to the State and its representatives.

In the weeks that preceded the passing of the law, Polish catholic commentators stressed that, while some form of secular union could be acceptable for those 'of no religious faith', the difference between such unions and marriage should be clearly marked, including in the type of ceremony performed. In fact, catholic authorities went so far as asking that no ceremony at all be performed for the 'non-marriages' contracted in the registry office, emphasising that no moral authority should be accorded to the registrars, whose only function should be that of recording the will of the parties.

3.7 Marriage Socialist Style

Predictably, the reform went in the opposite direction. The Marriage law of 1945, adopted with none of the lengthy debates that had ac-

³⁶ Halecki, *Poland*, 275-6; Fleming, *Communism, Nationalism, and Ethnicity*, 103-4. See also Valkenier, "The Catholic Church in Communist Poland"; for an analysis of the limits of what the Communist leader Jerzy Borejsza called the "gentle revolution", Zarembo, *Wielka Trwoga*, 15-20.

³⁷ On the impact of the war on the Polish Catholic Church, Osa, "Resistance, Persistence and Change", 268-99.

³⁸ "Trzeźwo o małżeństwo" (Soberly on Marriage). *Tygodnik Powszechny*, 19 August, 1945, 4.

³⁹ Piwowarczyk, *Tygodnik Powszechny*, 20 April, 1947.

accompanied the Italian Constitutional process, did nothing to reduce the social relevance of marriage. What it did was to shift the authority over it from the Church to the State, changing the very meaning that marriage carried with it. No longer a step in the path of individual salvation, marrying became a social responsibility and a way of contributing to the process of socialist construction.

Marriage in socialist Poland was to be based on equality, solidarity, faithfulness, reciprocal help and common work for the good of the family. Through “love, respect and trust”, the spouses were expected to create a “spiritual, physical and economic unity”, which was to stay at the centre of Polish social and economic life.⁴⁰

For earlier generations of Poles matrimonial prescriptions had been primarily a religious matter; in multicultural and multi-religious Poland, this had resulted in significant diversity in terms of expectations, duties and sanctions. One of the most remarkable aspects of the post-war reform was the introduction of a universal notion of what constituted married life, with the State as the only authority in charge.

In 39 articles, the new marriage law spelled out the rules that would now govern married life in the People’s Republic. The law detailed the conditions according to which celebrations could be considered valid, the rights and duties of the spouses, the conditions that invalidated a marriage, and the grounds upon which the spouses could seek a divorce.⁴¹

Impediments to marriage included not only the existence of a previous valid marriage and direct kinship, but also mental illness, TB, and venereal disease, in a clear affirmation of the power of the State, in charge to decide which marriages should be prevented in the name of collective welfare. The law had something to say also about engagements and marriage cancellation, setting the rules under which the non-guilty party and their family could seek financial compensation for the expenses incurred during marriage preparation.

Far from seeing registrars as silent notaries, the marriage law adopted in September 1945 gave them significant powers and responsibilities. As Gawrońska-Wasilkowska noticed, the new role of registrars should not surprise anyone; “given the significant social function of marriage and family”, it was natural that “the State should take an interest not only in the working of this important social cell, but also in the way in which it [was] formed”.⁴²

⁴⁰ From a directive of the Polish Supreme Court, dated May 28 1955, see Breyer et al., *Kodeks Rodzinny*, 813-16; Lasok, “The Polish Code”, 1023 and, by the same author, “A Legal Concept of Marriage”.

⁴¹ For a broader discussion, Szer, “Zmiany w Prawie Malżeńskim” and by the same author *Prawo Rodzinne*. See also Nagorski, “Marriage Law in Poland”, 493.

⁴² Gawrońska-Wasilkowska, *Małżeństwo*, 29-31.

Registrars were not only responsible for collecting the spouses' free exchange of marriage vows in the presence of two witnesses, but also for checking impediments, explaining rights and duties to the spouses, and overseeing that the marriage took place with the required propriety and decorum. As the representatives of the State, registrars were the only authority that could allow or stop a marriage and the only responsible for ensuring its validity. For the first time in Poland, the State had become the sole arbiter of matrimonial legitimacy.

Marriages were now expected to be celebrated with rites that stressed their civic relevance. The newly-weds were to be declared married not in the name of God, but in the name of the law. In the place of the traditional religious prescriptions received by their parents, young Poles should be reminded of the social importance of marriage and of the rights and obligations they were assuming vis-à-vis each other and towards the larger community of the socialist nation.

In its new role, the State incorporated functions and powers that had previously belonged to the Church and, to some extent, to the family. A clear instance of this, was provided by the way in which the first condition of marriage validity, namely the age of the spouses, was reformulated.

According to the marriage law of 1945, both men and women could marry from the age of 18. Younger people (although not below the age of 16) could marry on the basis of a Court order, motivated by the new family's welfare or by the welfare of society. While apparently unremarkable, the new norm went against two deep-set principles of Church and family authority.

Equal minimum age for men and women would come to represent a common principle in socialist countries, but contrasted with most Western European civil codes (including the Italian one), which usually established a higher marriage age for men. More importantly, equal minimum age was in contrast with Canon law, which set the minimum age to 16 for men and 14 for women.⁴³

The principle that exception could be granted by courts, irrespectively of the opinion of the parents, moreover, broke the principle of parental consent. By giving courts the authority to act as statutory guardian on behalf of the State, the reform asserted the principle that the State rather than the parents should now be seen as the guarantor of young people's welfare and protection.⁴⁴

⁴³ Canon 1083, the *Codice di Diritto Canonico* published by Benedict XV in 1917 allowed Episcopal Conferences to raise the minimum age required for marriage, in order to endure the maturity of the spouses.

⁴⁴ Again, this constituted a common principle in Eastern Europe, with similar provisions operating in the Soviet Union, Bulgaria, Czechoslovakia, Rumania and Yugoslavia. For a comparative analysis of family law in socialist countries, Wierzbowski, *Prawo rodzinne*. As we will see, the age of consent was raised in the early sixties, as

3.8 An Equal Institution, Under the Gaze of the Socialist State

There is little doubt that the legal situation that existed in Poland in 1945 made intervening in family life almost inevitable for a government set to take the country to the road of socialist transformation. The existence of different systems of family law inherited from the partition era and the chaotic situation left behind by the war made legal reform an urgent matter and provided the Provisional Government with a golden opportunity to intervene.⁴⁵ Throughout the fifties, the regulation of marriage and family life remained an important terrain on which to affirm the values pursued by the Socialist state.

The Family Code of 1950 further spelled out the prerogatives and rights of civil marriage. Article 1 of the Code restated that, once in a valid marriage, husband and wife became committed to maintain a community of life, which included faithfulness, reciprocal help and cooperation for the welfare of the family that resulted from the marriage.⁴⁶ The Code stressed that, as a unit of equals, marriage in a socialist society should be based on equal work and commitment to the common good.⁴⁷ Both spouses should contribute to the maintenance of the family, in accordance with one's abilities and resources.⁴⁸ What this meant in practice was open to some negotiation and changed over time. According to the Family Code of 1950, looking after the children and the home could be considered as satisfying the duty of contributing to the family economy "in part or in total".⁴⁹ In time, and more markedly from the mid-sixties, the reference to care as exclusive contribution to the family economy would become stronger, supporting an inexorable return to traditional gender roles. (To this, I will come back in the next chapter).

This was not the case in the early fifties, however. When the Family Code was introduced, the recruitment of women to the industrial

part of a 'conservative turn', justified in public discourse by the need to ensure a greater awareness and experience of Poland's new parents. See Gawrońska-Wasilkowska, *Małżeństwo*, 41-2.

⁴⁵ The Provisional Government of the Polish Republic was formed in December 1944, as the evolution of the Polish Committee of National Liberation, created a few months earlier to take charge of liberated territories. The Soviet sponsored body eventually merged with a group associated with the leader of the Peasant movement, Stanisław Mikołajczyk; renamed Provisional Government of National Unity, the body lasted from 28 June 1945 to January 1947.

⁴⁶ Dział II, "Prawa i obowiązki małżonków" [The Rights and Obligations of the Spouses], Art. 14, Kodeks Rodzinny, Ustawa z dnia 27 czerwca 1950 r., *Dziennik Ustaw*, 34, 308, 364.

⁴⁷ Art. 14 of the Constitution of 1952.

⁴⁸ Łobodzińska, *Małżeństwo w mieście*, 34-9, 45-6.

⁴⁹ Dział II "Prawa i obowiązki małżonków", Art. 18, Kodeks Rodzinny, Ustawa z dnia 27 czerwca 1950 r., *Dziennik Ustaw*, nr. 34, poz., 308, 364.

labour force still represented a major political and economic goal in Poland and no reference to a gender-based division of duties could be envisaged. In fact, the decision not to work, unless taken jointly, could be considered disruptive to marriage, and as such considered as possible grounds for divorce.

This strong assertion of gender equality within the marriage economy found further confirmation in the proclamation of work as a fundamental duty for all citizens, contained in the 1952 Constitution.

The Constitution of 1952 must be read with the double lens that characterised the Stalinist years. The essence of the political transformation underway was the establishment of the near absolute power of the Party-State, at least on the surface. However, the new Constitution guaranteed civil liberties, universal suffrage and a parliamentary government, and promised to expand individual and collective social rights. As far as family life was concerned, the Constitution went close to the ideal that Italian Communists had propounded but had been unable to pursue.

The text included both traditional and innovative elements in relation to the social role and nature of marriage. To start with, marriage was treated as an essential element of family life, and both were put “under the care and protection of the Polish People’s Republic”, in view of their fundamental social role. The State assumed special responsibility towards “families with many children”, and towards the upbringing of younger people.⁵⁰

At the same time, the Constitution stressed the absolute equality of men and women and the equal rights of children born within and outside marriage.⁵¹

Gender equality within marriage was one of the elements that should most distinguish a socialist union from its bourgeois equivalent, at least on paper. In sharp contrast with catholic positions, Polish law made no concessions to the idea of marriage as a hierarchical structure, recognising neither the existence of a “head of the family” nor of a breadwinner. In a Constitution that defined work as “the right, the duty and a matter of honour for every citizen”, no difference could be made in the way in which men and women should contribute to the prosperity of the family and to the “full realisation of the socialist system”.⁵² No special prerogatives were therefore envisaged for husbands and wives. Polish husbands were not responsible for representing their families in the social and political sphere, nor had the power to choose the family home or making decisions on behalf of their wives, as it was the case in Italian law.

50 Polish Constitution 1952, ch. 7, art. 67, § 1, and Art. 68.

51 Polish Constitution 1952, ch. 7, art. 66, §§ 1-2.

52 Art. 14, § 1.

On the contrary, the State promised to guarantee women's equality of rights, mainly by ensuring that maternity and work could both be pursued under the auspices of the People's Republic. Women should "work and be paid" according to the principle "equal pay for equal work", and they should have the same rights as men "to rest and leisure, to social insurance, to education, to honours and decorations, to hold public appointments". As part of the commitments towards women were special provisions for "mother-and-child care", the protection of expectant mothers, paid periods of maternal leaves both before and after confinement, the creation of maternity homes, *crèches* and nursery schools, and the setting up of a network of service establishments, restaurants and canteens, aimed to reduce the impact of domestic chores.⁵³

The treatment of family life and caring relations in the Constitution reflected a strong notion of individual welfare as collective responsibility. As we will see in the next chapter, however, many of the promised measures of social interventions remained unfulfilled, leaving Polish social policy to rely on much more traditional notions of care, as a private and heavily gendered duty.

3.9 Catholic Resistance

As Polish Catholics had feared, the marriage reform of 1945 left no space for religious marriage. Only Art. 37, as part of the law's final dispositions, explained that the law "did not prevent the performance of complementary rites", in accordance with individuals' membership in a religious association.⁵⁴ Far from offering any reassurance to the Church, the concession confirmed the determination of the State to eliminate its privileges.

At first sight, then, one could conclude that the Polish state had won easily the battle for control over family and marriage that in Italy had seen the near triumph of the Church. In this sense, the marriage reform could be seen as an important step in the pursuit of the secularisation of Polish society and as part of a broader project aimed at limiting the Church's influence over Polish politics and law.⁵⁵

But had Polish authorities really succeeded in the effort to relegate religion to the private sphere, pushing the Catholic Church out

⁵³ Polish Constitution 1952, ch. 7, art. 66, § 2.

⁵⁴ Art. 37, *Dziennik Ustaw*, nr. 48 (1945), 270-1.

⁵⁵ According to Szajkowski, secularising Polish society represented one of the three pillars on which the socialist project of neutralising the influence of the Church rested. The other two were the weakening of the Church's relation with Rome, and the undermining of clerical and lay organisations. Szajkowski *Next to God*, 9.

of political life? While affirming the authority of the State over marriage and the family, the government's universal civil marriage offered the Church a clear platform on which to articulate her resistance to an atheist and oppressive State.

The Church relentlessly denounced universal civil marriage as a sinful imposition and a manifestation of the regime's determination to tear Poland away from its faith and traditions. The battle for the defence of the catholic family quickly turned into a battle for the soul of the nation.

Reminding the faithful of the true nature of marriage - a marriage that the State was now denying to its citizens - became a way of reminding catholic Poles that they were living under an illegitimate authority, which ignored if not vilified their values.

If, throughout the second half of the forties and the early fifties, the iron fist of Stalinism put a lid on the Church's ability to have its voice publicly heard, the fire kept burning under the ashes, ready to rise again at the first sign of government's trouble.

Catholic authorities did not have to wait long. In the second half of the fifties, as the revelation of Stalin's crimes, economic discontent, and a growing disaffection with national leadership presented the Communist regime with its first big political crisis, the Church quickly seized the opportunity to show its undiminished authority over the nation.

Not by coincidence, marriage and family life provided the main topic to the Sunday sermons in 1956. By reminding the faithful where the truth lay on the issue of marriage, priests and bishops made a much broader statement on the country's present and future situation.

In the month of May, traditionally dedicated to Mary, sermons were devoted to *Marriage as the Institution of Life, God as the Creator of Marriage, Through the Lawful Performance of the Matrimonial Duties to Heavenly Prize, The Essence and Importance of Marriage*. The series of sermons dedicated to the sacramental nature of marriage continued in June, when priests addressed the flock on *Marriage as a Sacrament, the Meaning of the Sacramental Ceremonies of Marriage and the Benefits of the Indissolubility of Marriage*.

At the end of the same month, Poland's first workers' revolt exploded in Poznań, showing the gulf that had already opened between the Communist party and the class it was supposed to represent. While giving blessing to the workers demonstrating in Poznań, priests continued to talk about the catholic vision of marriage, and its incompatibility with the materialist rules imposed by the Polish state. In July, sermons were dedicated to the *Harmfulness of Divorce* and the *Divine Help in the Tasks of Married Couples*, as well as to the *Obligations of Parents in the Beginning of the School Year*.

In August 1956, half a million people took part in the annual pilgrimage to Częstochowa, in a mass display of faithfulness to the au-

thority and the teaching of the Church. There, the empty seat of the Primate of Poland Stefan Wyszyński, under arrest since September 1953, stood as the emblem of the persecution suffered by the Church, as well as by ordinary Catholics.

In September, the teaching on married life continued, with sermons on the responsibility for *Solidarity of Married Couples, The Church's Attitude towards Marriage, The Purpose of Marriage Impediments* and *Christ the King of the Family*.⁵⁶

In October, severely bruised Communist leaders finally accepted their inability to bring the by-now open discontent under control, and decided to seek a new understanding with the Church.

In November 1956, in the encyclical *Laetamur ad morum*, Pius XII "noted with joy" that Cardinal Stefan Wyszyński, Archbishop of Gniezno and Warsaw had been readmitted to the dioceses from which he had been removed three years earlier.⁵⁷

The liberation of the Archbishop of Warsaw was one of the several events that demonstrated the failure of the Communist attempt to remove the Catholic Church from Polish politics. The return of Wyszyński to Warsaw was neither an act of State 'benevolence' nor a concession; it was the result of negotiations that gave back to the Church much of its public voice.

Together with the return of ousted Communist leader Władysław Gomułka to power, the new understanding with the Church marked the acceptance by Moscow that Poland could follow a path to socialism that kept into account specific national characters, starting with the country's religious traditions.

This acknowledgement of national peculiarities was to be of great relevance for family and marriage. As political leaders tuned down their rhetoric, the radical reforms of the early post-war years also started to be amended, in an effort to calm widespread resentment and disaffection.

As we will see, issues such as the religious education of children and the role of women as workers and mothers would become central themes in the search for compromise that engaged the Church and the State throughout the sixties. So did the issue of which authority should preside over marriage.

⁵⁶ *Kronika Diecezji Sandomierskiej* [Chronicles of Sandomierz Diocese], LIII, 1960, 77-9. See also Marian Mazgaj, *Church and State in Communist Poland*, 186.

⁵⁷ *New York Times*, 3 November, 1956.

3.10 Conclusions

In the post-war years as in earlier historical periods, the struggle over marriage encompassed legal, political, religious and symbolic dimensions. As in the past, religious and civil authorities saw in the regulation of marriage a means of both asserting and measuring their influence and their ability to keep control of social mores.

Both in Italy and in Poland, marriage and family life entered fully in the ideological struggles that characterised the Cold War years.

In the immediate aftermath of the war, dynamics appeared very different in the two countries.

In the early post-war years, Polish Communists showed a staunch determination to *modernise* marriage, by rendering it a secular institution based on equality and subject only to the authority of the State. The blueprint of reform followed in Poland fully reflected the model of marriage and family life advocated in Italy by the PCI. Italian Communists, however, readily sacrificed this reformist agenda, first in an effort to preserve a fragile alliance with the catholic party, and later in the attempt to appeal to catholic voters. While, in Poland, the Catholic Church had to defend itself from the sustained attack of the new Communist government, little resistance was put up in Italy against the catholic determination to remain the dominant voice as far as family and marriage were concerned.

Power relations and historical legacies shaped the different approaches to marriage and family legislation in the two countries.

In Poland, a legislative void dating back to the reunification of the country offered the justification for the introduction of a new marriage law already in 1945. In the same year, the fascist civil code of 1940 became the law in the Italian Republic, bringing with it provisions on marriage and family formulated under the auspices of Mussolini's regime.

Both the far-reaching reforms of family life pursued by post-war Communists in Poland and the lack of intervention that characterised Italy's democratic transition carried significant practical and symbolic consequences.

By seeking to assert the power of the State in a realm historically under the control of the Church, Polish Communists showed their determination to break with the past. Although they successfully showed the State's ability to reduce the political influence of the Church, they also opened themselves up to the accusation of ignoring and willfully neglecting the values and beliefs of the people they governed. This would become a powerful weapon, used by the Church to demonstrate the arbitrariness and illegitimacy of Communist power.

In Italy, on the other hand, the Communist determination to seek a compromise with catholic forces contributed to shape an approach to family life in staunch continuity with the past. By accepting the

inclusion of fascist family legislation into the Italian civil code, Italian Communists accepted an institutional and legal continuity that would seriously question the supposedly anti-fascist character of the post-war Republic.

To sum up, while the immediate post-war years were marked in Italy by the overwhelming influence exercised by the Catholic Church over the treatment of marriage and family, the same years saw in Poland an open conflict exploding between State and Church, reflected in the introduction of significant reforms in the field of marriage and family life. This, however, started to change already in the second half of the fifties, and throughout the sixties and seventies, when opposite tendencies started to emerge in the two countries. In Poland, an increasingly discredited leadership reluctantly sought a compromise with the Catholic Church, leading to a conservative turn in matters of family life. In Italy, growing pressures from below would gradually force reluctant political parties (starting with the PCI) to take over an agenda for social reform that had in the family one of the main fields of intervention.

