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 **The** 
Polish - European
Paradox



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Abstract

This paper presents views and observations about some current social problems in Poland. The problems introduced are theoretically discussed in reference to Poland's entry in the European Union. The argumentation in this paper is performed in three stages. The first stage presents a model of Polish society throughout communism towards today's society, where the weight is put on the Catholic Church's role in Polish legislation and the role as such is evaluated. The next stage is a presentation of Polish law and how the law is applied in practice. The laws presented at this stage are, the law on ethnic minorities and the law on abortion. These two stages analyze the laws cause and consequences and lead up to a discussion on whether human rights are being upheld in Poland and what role the European Union could have in Poland's future

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Introduction

Every day new history is borne, that is why every event is so important, for it not only shapes our history and past but also our future.

After two world wars, the second half of the 20th century was victimized by a cold war between west and east. This cold war separated neighbors and caused suspicion, hostility and hate between people, countries, leaders and ideologies. In Europe the iron curtain split the continent in half. Under several decades there where different views about how states, religion, economic development and societies should work and evolve.

In 1989 one of Europe's society systems broke down. The fall of communism in the countries east of the iron curtain and the reformation that swept through Eastern Europe was the first step on the way towards a united Europe. After living together side by side but yet apart, the countries in east and west where now approaching each other rapidly. The European Union's fifteen countries are united in the decision to grasp this opportunity and include Eastern European countries in the effort to never allowing war, totalitarianism and resentment for human rights to take place in Europe again. Countries in Central and Eastern Europe want to see the membership in EU as a guaranty for peace, and as a way of structuring democracy and modernization for its society's together with Europe. By giving support to the reformation process in Central-Eastern European countries, European countries like Sweden and other EU countries will get new markets, trade partners and new investment possibilities. The goal is an economically and politically united Europe where democracy, well being, justice and respect for the human rights exist.

In 1993, about four years after the fall of the iron curtain, the European Council took the first steeple to a new Europe and invited 10 more countries.

These ten countries from eastern and central Europe can become new members of the European Union. In April 2003 Poland signed the access treaty in Athens.

Donald Rumsfeld has famously described the current divide as "old Europe" (including France, Germany, Belgium and Luxembourg) and "new Europe" (including Britain, Spain, Italy, Poland and the other central and east European states). The truth is that we are all together moving back to old Europe, a continent of constantly shifting alliances, with states pursuing public and secret diplomacy against each other. But the point of the new Europe we old Europeans are supposed to be building together is, precisely, to do something new.

What I find interesting is the paradox that the European Union will face when ten more countries become new members. The ideological goal is to make Europe a continent where European countries operate like "states" and exercise equal politics. The paradox begins with the fact the European countries have had decades of different modern history, religion, conflicts,

politics, law and social values. Thus, the “new” Europeans will be people from different social groups.

First of the ten new European countries will be Poland.

Poland is a Central - European country with particularly intense history. Because of Poland’s intense history the country has both a proud and shameful past. On one hand Poland can be proud of its strength concerning the fact that each time Poland was ruined and brought down to its feet by war, separation, communism etc, they managed to survive and rise even stronger, or so it seems. But on the other hand Poland’s history has a lot of skeletons in the closet, which they have to deal with and remedy. The Polish people are very pleased to discuss their proud history, like the Warsaw uprising, but when it comes to the shameful parts of their past, like the incident in the little village of Jedwabne when about 2000 Polish Jews were burnt alive by their Polish neighbors, Poles want to keep it a secret. There are presently a lot of “dirty secrets” going on that Poland wants to cover up. But when a country enters a union with other countries it has to do so with “clean hands”. If not, they will have to make their unsolved issues “disappear”, which of course will lead to other issues and a spinning wheel of lies.

I believe that one of the most important issues Poland must deal with, is the role of the Roman Catholic Church in Poland. The church’s role has been forcefully discussed in Poland, but their role only seems to grow stronger. The Polish society is affected by the strong role that the church possesses.

The fifteen countries in EU can have different opinions in various political situations, both diminutive and immense ones. Since it is the Council, where the countries are represented, that has authority in EU, the EU-cooperation is often about melting together different points of view. But the basic vision about how a state is to work politically and economically is the same for all member countries. For example, EU does not accept if a country violates human rights.

From the Union treaty: according to the Amsterdam treaty, article 6 (former article F) *“The Union is built upon principles of freedom, democracy and respect for human rights and the principle of basic freedoms a legal state” [...]*

The terms for Poland’s membership were established on EU’s top meeting in Copenhagen 1993. One of the terms reads that the country must be a “politically stable functioning democracy with a legal system that respects human rights and guarantees protection for ethnic minorities”. As a definition of the time frame for the harmonization process and the implementation of Community law, the Government of the Republic of Poland has accepted December 31, 2002 as the date on which Poland will be prepared to join the European Union.

Poland claims to share all the European Union’s aims as regards to the sphere of human rights. Poland perceives the possibility of participating in EU policy as a significant opportunity for the development of Polish

culture and EU culture, which would facilitate the efficient promotion of Polish culture in Europe and European culture in Poland. Polish law conforms fully to Community standards binding in that field.

Why is this a problem for the Sociology of Law?

To understand and develop Polish society and law in a positive direction there is a need for a science that brings itself to understand and analyze how values, emotions and norms have a meaning for individuals and social groups actions.

Actions in a society can be understood from the point that structures and norms control human's action. Knowledge and analyses about law is not enough. So what will the law show us if we study it?

A quote from the renowned sociologist Emile Durkheim who stated; "the law indicates that kind of society we are studying" is an adequate answer.

The sociology of law can therefore study the law, but most importantly study society to reach an understanding why the law has the form it does. To solve and understand problems Poland has, and could have with their legal system and legal practice, the laws cause and consequences have to be studied. The laws cause and consequences is presently what I am studying in this paper.

A study of the Polish Roman - Catholic Church's interference in the legal justice system and legal practice is an issue for the sociology of law given that if the church possesses power over law and state this affects society and all societies that work with that state.

Research questions

The questions I have chosen are designed to construct a model that will show the Roman Catholic Church's role in Polish society and the meaning of that role in Polish legislation and legal practice.

The questions seek answers in a historical context, where the role of the Polish Roman Catholic Church is examined commencing from the communist years towards today's society.

Following a study on the Polish Roman Catholic Church involvement in the legal practice of the law on ethnic minorities and the abortion law is presented.

This empirical model leads to an argumentation whether or not Poland's "legal practice" is upholding human rights and thereby the role of the European Union will come in, within the sense of whether or not a multicultural society based on human rights is suppressed or accessible.

The three questions, which are applied in this notion, are;

- What has been the Polish Roman Catholic Church evolving role in Polish legislation?
- What role does the Polish Roman Catholic Church play in Polish legal practice, concerning the law on ethnic minorities and the abortion law?
- Does the Polish current legal practice assimilate with the European Union's multicultural society and the upholding of human rights?

Research realization, theory and method

The realization of the paper had to be done through document analyses, there has been little choice for anything else, because of the fact that I am writing about another country than the one I'm living in. The realization of this research could in the future be completed by observation and case studies. But this paper should be looked upon as a kind of "pilot survey". The paper is written in three chapters. Every chapter discusses one of the research questions.

The first chapter examines the role of the Polish Roman Catholic Church in a short historical context, beginning from the communist years towards today's society. This chapter gives the reader a perspective on Poland's political situation during the last decade and gives an understanding to the evolving role of the Catholic Church. The first chapter introduces the studied problem and examines the interference of the Catholic Church in legislation and possible reasons to this phenomenon.

In the second chapter two kinds of legislations are presented, the law on ethnic minorities and the abortion law. This chapter studies what role the Polish Roman Catholic Church plays in Polish legal practice.

Many may wonder why I have chosen the law on ethnic minorities and the abortion law. The answer is actually very simple. These laws have been the topic in public discussion and represented as the most controversial laws in Poland. The law on ethnic minorities has been presented, as "neglected", and the abortion law as "un human", and it has been said that the church in legal practice is manipulating both laws. This is why I have chosen to investigate, in the second chapter, if in fact the law on ethnic minorities and the abortion law is different in "written law" and "living law", that is to say, how the state legislation has defined it, and how the laws actually are applied and if there is an manipulation in legal practice by the Catholic Church.

The third reason why I have chosen these two laws is that there is a connection between them. If it can be proven that the law on ethnic minorities and the law on abortion is applied differently in practice, and that the church is the main reason to that phenomenon, the connection between these two laws is simply; that a law like the abortion law

subsequently contributes to the fact that the law on ethnic minorities is being neglected.

The first two chapters are the empirical ground on which the discussion in the third chapter will be positioned upon. The third chapter confines the role of the European Union in the discussion. Based on the first two chapters, I present a summery and discussion about whether polish legal practice upholds human rights and how the current polish legal practice assimilates with the European Unions multicultural society and the upholding of human rights. The discussion ends with a query about what the European Union could mean for the future polish society.

1. What has been the Polish Roman Catholic Church evolving role in Polish legislation?

The Polish Roman Catholic Church played a well-known role in Polish society all through the communist era. This role was a consequence of three historical developments:

- Poland implemented the Roman Catholic Church as the national religion in 966. During the centuries, Polish Catholicism came to mean not merely a system of religious beliefs, but furthermore it came to represent Polish cultural values and directions.
- During the separations, occupations, and externally imposed governments of the past two centuries, a close recognition connecting the church and Polish nationalism surfaced.
- Through the elimination and the throwing out of Jews and through ethnic migration followed from Stalin's movements of the Polish state in the late 1940s, a virtually homogenous Catholic nation was shaped.¹

1:1 The church during communism and today

The advance of the Polish Catholic Church to the Polish state changed radically after 1989. During the Communism period the Church was an opposition to the communistic government. In the start people believed in communism, but they rapidly discovered its consequence. When people felt suppressed they turned to the church that became a symbol of freedom for them. When communism was brought down, there was no stable political system in Poland. The most stable institution was the church. So in order to obtain legitimacy, the "new" government worked together with the church, and the church saw this as an opportunity to achieve more power, like they had earlier in Polish history. This situation has not changed since 1989, with the upcoming referendum about joining EU, the present President of Poland, Alexander Kwasniewski, went to the Vatican to see the Pope for help with convincing people to vote "Yes" in the referendum. The Polish Prime Minister also went to the Pope some time ago. Public authorities can often be seen showing their Catholic conviction; there are even Catholic parties in Poland, even though you can read something entirely different in the Polish constitution.

Article 25

(2) Public authorities in the Republic of Poland shall be impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life, and shall ensure their freedom of expression within public life.²

¹ Seminar 7 - "Solidarity" in Poland, Position Paper on: The Catholic Church, by: Susanna Blomqvist, <http://www.st-andrews.ac.uk>

² Poland – Constitution, Adopted by National Assembly on: 2 April 1997, Confirmed by Referendum in: Oct 1997

The Church's influential role in promoting the opposition's views, the Church's close relationship with Solidarity³, and the Church's mediation between factions in the tumultuous 1980s, brought it enhanced political power in the post communist system. In 1989 almost every important public organization in Poland saw the church as a partner in its actions and decisions. One effect of this recognition was when the Sejm⁴ began negotiations on a new constitution in 1990. The episcopate requested that the text practically abolish the separation of church and state. Such a change of constitutional philosophy would put the authority of the state behind such religious guarantees as the right to religious education and the right to life beginning at conception (hence a ban on abortion). During the communist era, the separation of church and state had been the basis of the church's refusal to acknowledge the authority of atheistic political regimes over ecclesiastical activities.⁵

As a political matter, nevertheless, the unleashing of stronger church influence in public life began to alienate parts of the population in two years of the passage of the bill that restored freedom of religion. Catholic intellectuals, who had joint opposition sympathies with the church in the communist era, also began doubting the repressive rules of Cardinal Wyszynski. Many people feared that a settlement between the church and the communist state might build an alliance that in result would institute an official state church. Once the common enemy, the communist system, disappeared in 1989, these fears recharged and spread to other parts of Polish society.⁶

Adam Michnik claims in his book "The church and the Left" that in this time Catholicism fought dirty to have a place in society, He writes that; Catholicism was to us identical with anti-Semitism, fascism, obscurantism, fanaticism, and all that was anti-progressive and anti-cultural"⁷. He also claims that the priest deputies in the Sejm (the Polish parliament) waged their battles with ugly words and ugly methods and joined activist fascist movements. They claim it as a part of their continual struggle against the communist enemy.⁸ Adam Michnik does not totally object to a political role for the Polish Catholic Church, nor does he totally dismiss the Church's preaching about moral disorientation that some traditionalist's say inevitably accompanies liberal modernity. What he condemns is only a fundamentalist style of religious engagement in politics and law, that is, the logic of some representatives of the Polish Church, that they are 100 percent right, 100 percent of the time.

In the period that followed, critical issues were the reintroduction of religious teaching in public schools which happened on a national scale at church insistence, without parliamentary discussion, in 1990, and legal prohibition of abortion. Almost immediately after the last communist

³ Poland's opposition during communism

⁴ "The Polish parliament"

⁵ Library of Congress Country Studies, Poland-Church and State after 1989, <http://lcweb2.loc.gov/frd/cs/pltoc.html>

⁶ *ibid*

⁷ Adam Michnik, 1992, "The Church and the Left" page: 35

⁸ *ibid*

regime fell, the church began to exert pressure for an abolishment of the liberal communist-era abortion law in effect since 1956.

Between 1990 and 1992, church pressure brought three progressively tighter restrictions on birth control and abortion, although surveys showed that about 60 percent of Poles backed freedom of individual choice on that issue.⁹

By 1991, the proper boundary of church intervention in social policy making was a divisive social and political issue. At that point, only 58 percent of citizens polled rated the church the most-respected institution in Polish public life, second behind the army. By contrast, one year before 90 percent of citizens polled had rated the church as most respected.¹⁰

Especially for less educated Poles, The Virgin Mary represents a touchable yet mystical bond with God much preferable to thought of abstract theological doctrine. During the communist era, this more instant and anthropocentric religiosity seemed exceptionally resistant to replacement by the intellectual doctrine of atheism. On the other hand, in the early 1990s, once the vision of state sponsored atheism had disappeared, this immediacy promoted individual expression of beliefs in ways that questioned the church's authority over secular social ethics. Thus, the official church that had protected the spiritual interests of all Poles under communism risked separation from the everyday religious practice that retained great meaning for the average Polish Catholic.

This meant for the Catholic Church that they must fight not to lose power over society.

In 1984, when Primate Glemp wrote an introduction to a new edition of Roman Dmowski's 1927 guide, *Church, Nation, and State*, one could not have any doubts regarding Glemp's political sympathies: they lay with Dmowski's *Endecja*¹¹ political tendency, The act of identifying himself with the program of one particular political tendency, and an illiberal one at that, was a sign that Glemp's Church was strong-minded to involve itself directly in the struggle for determining the nature of the post communist political future, a struggle that, as everyone in Poland understood, was already well on the way in the mid-1980s.¹²

Glemp's political views became clear in an internal document from 1988 that was widely discussed in the secular opposition press. The primate here came out explicitly against the notions of pluralism and a secular state. State institutions, he wrote, must embody the "character and aspirations" of the nation. In a Catholic nation like Poland, "neutral" institutions are out of place because they are not "in tune with the national

⁹ Library of Congress Country Studies, Poland-Church and State after 1989, <http://leweb2.loc.gov/frd/cs/pltoc.html>

¹⁰ *ibid*

¹¹ The major nationalist party in the interwar period known for its illiberal and authoritarian politics, support for a strong leader, advocacy of Catholicism as a state religion, and violent anti-Semitism.

¹² Adam Michnik, 1992, "The Church and the Left" page: 20

mood."¹³ The Church, wrote Primate Glemp, "can not support" the right of nonbelievers organizing their own institutions.¹⁴

Glemp finds even the notion of tolerance offensive. By presenting Catholicism "as the greatest one of many possible world views," the idea of tolerance "treats the Church as a marginal phenomenon," a status that Glemp's Church was definitely going to avoid. Moreover, some things simply ought not be tolerated, atheism for example, which is "abnormal" and "based on falsehood."¹⁵

Glemp pursued the campaign against liberal values by finding and using issues in which he knew liberals would be in agreement with the Communists and thus feel powerless, in circumstances of a struggle against the Communists, to defend their own principles.

In 1984 the Church waged an important fight with the government over the right to hang Christian crosses and crucifixes in all schools and began its campaign to outlaw abortion. Poland has the most restrictive abortion laws in Eastern Europe, partly as a reaction to Soviet communism. During the cold war, abortion was available on demand throughout the Soviet block where it was in effect practiced as a means of birth control.

It has pushed strongly for the legal adoption of Church guidelines on both issues ever since.¹⁶ Which confirms the fact that the Catholic Church has a hand in Polish legislation.

How can the Polish priesthood be depoliticised when their Church is the carrier of so many national recollections, and when, before 1989, it was so intimately associated with the opposition to communism?

How can the Polish Church be transferred to the private field, when its historical ties to Polish nationalism are so deep, and when the tradition of a national church is more continuous than the tradition of a national state? Today, the Polish Church still provides a united point for the political forces in the country. A sufficient reply to this problem must initiate, with the insight that "democracy" itself is a cultural problem whenever and wherever it appears as a foreign implant with shallow national roots.

In such a setting, not God but a national church, took in its own right, to help reinforce the weak legitimacy of national politicians, who are being harshly criticized as puppets. Catholic churches, in other words, can help define the restrictions of allowed Westernization. Their message is: foreigners can control our economy, but they cannot touch our souls!

¹³ Adam Michnik, 1992, "The Church and the Left" page: 20

¹⁴ Primate of Poland Józef Glemp, "Uwagi o projekcie dokumentu Prymasowskiej Rady Społecznej" 6 June 1988, published in *Aneks* (London) no. 53, 1989

¹⁵ *ibid*

¹⁶ Adam Michnik, 1992, "The Church and the Left" page: 20

1:2 Society Worshipping Itself?

Emile Durkheim used the topic of religion as a further opportunity to examine the relationship between individual and society, and to investigate what he perceived to be a major mechanism of social solidarity. As an atheist, Durkheim could not accept that the supposed point of religion, which is worshipping a God, could be its real explanation. Durkheim was not the only scientist to try to explain what religion was “really” about. There were many before him who argued that religion was a product by the individual mind, but Durkheim means that religion is a collective, and not an individual phenomenon.

He also points out that one religion is no different than the other, for in all religions the point of being part of it, is the rites, symbols, the belief in something bigger than yourself and the social solidarity.¹⁷

He reasoned that since religion was such a widespread phenomenon, it couldn't simply be dismissed as entirely false. If it was false, then surely people would see through it, and not so many would be in its control. Durkheim meant that there had to be something to it, but what?¹⁸

Durkheim says that religion divides the world into two spheres; the sacred and the profaned. On the one hand, there is the ordinary, every day world of practical, rational, material and other concerns, on the other is the world of the special and the ritualized, these spheres must be sharply separated, which they are not in Poland. Polish people often mix these spheres together and search for answers in the sacred sphere to problems they have in the profaned.¹⁹ For example a glass of wine to dinner is in the profane sphere only a glass of wine to dinner, but in the sacred Christian sphere a glass of wine represents the blood of Christ. The church requires its members to change clothes, attitudes and manner when what they are doing something that involves contact with the sacred. This distinction is also connected with collective existents since a church requires of its members certain beliefs, and above all, the performance of certain actions, namely rites.

A religion is a unified system of beliefs and practices relative to sacred things, that is to say, things set apart and forbidden, beliefs and practices which unite into a single moral community, called church, and all those who stand with them.²⁰ In principle, any such beliefs and practices could satisfy religion's social function. A belief in God, gods or spirits is not required. The essence is abstract powers and forces, which can be attached to rituals, procedures and ceremonies, to words said and actions done in particular settings.²¹ Even where religion is personified in specific deities, like Jesus, impersonal forces and powers are what is its fundamental ground. That is what gives religion its collective aspect.

¹⁷ Roger Cotterrell, 1999, "Emile Durkheim-*Law in a Moral Domain*" page: 53-55

¹⁸ E.C. Cuff, W.W. Sharrock and D.W. Francis, 1998, "Perspectives in Sociology" page: 77 f

¹⁹ Adam Michnik, 1992, "The Church and the Left"

²⁰ Emile Durkheim, 1915, "The Elementary Forms of the Religious Life" page: 47

²¹ *ibid* page: 200

So if that is religions collective aspect and all religions are the same, that brings to the conclusion that the belief it self is not what is important. It doesn't matter if it is Jesus or Buddha or Mohamed, what matters is the idea of something greater than the individual him/her self. When looking at Poland's history, there have always been arguments by priests or kings or politicians that the country should work for "something bigger then themselves". Slogans like: for God, honor and the nation, have always been and are very popular.

If you look at the polish country during communism, it was very important for all people to be "a like". People were working, studying, and living not for themselves but for "the social solidarity and the socialistic country of Poland." Ironically when the fight against communism began, the Catholic Church, that also wants all Poles to be a like (Catholics instead of communists) were the opposition.

The question that comes at hand is if the belief in something bigger than themselves, which was communism, didn't just switch place with Catholicism? Could it be the same phenomenon, only with different names and references?

After world war two, Poland was a very weak and vulnerable country. So much had been destroyed; so many killed and so many had emigrated. When the former Soviet Union helped Poland in their fight with the German Nazis, and after the agreement that took place in Jaltaconference²² when Europe became divided in west and east, the former Soviet Union gave Poland a stable system. It was the only stable political system Poland could have. The same happened more than forty years later when the fall of communism began. Poland was weak again and didn't have any other strong and stabile system in the opposition. So the rational thing to do for the opposition was to come together with the Polish Roman Catholic church, which was stable and had been a resistance for the polish people. This way the opposition had legitimacy; the people could still believe in something greater than themselves and have solidarity. So one took over for the other.

Mechanic solidarity is above all, a need for legal regulation (repressive law) that expresses condemning of actions that are against the common god, the collective moral and the collective solidarity. Religion provides a prospect of making sense of the world, it gives a universe of interpretation, or at least the fundamental underpinnings of one.²³ Thus it can provide the beliefs that inform and justify moral conviction. In *The Division of Labor*, one of Durkheim's dissertations, he refers to repressive law²⁴ as a reflection of shared beliefs, he sees these beliefs as derived in most society throughout history from the all-embracing world views that the traditional religion shaped.

²² Meeting on 4-11 November 1945 between Roosevelt, Churchill and Stalin regarding among other things Europe's borders

²³ Emile Durkheim, 1915, "The Elementary Forms of the Religious Life" page: 425

²⁴ Repressive Law: opposite of restitutive law, the punishment is harder and often collective. The solidarity of the collective is more important than the individual.

The general structure for shared beliefs and understandings' existing in a particular society Durkheim calls the "collective consciousness". This is the totality of beliefs and sentiments common to the average member of a society.²⁵

The collective consciousness is extensive, that is, the range of shared beliefs and sentiments is great in societies dominated by mechanical solidarity and repressive law.

The concept of collective consciousness makes it possible to refer to widely held beliefs or understandings as social facts, which is what I will be doing in my following statements. Religion figures in Durkheim's work as a focus for addressing the problem how people become attached to ideals and general understandings of the world and their place in it, and live these ideas out as part of their being.

The Polish country had a collective consciousness during the communism era, and very repressive laws were you could for example get the death penalty or lifetime imprisonment for committing crimes that today would give you maybe 4-5 years imprisonment or even none at all. Today the constitution is much like the "western" constitutions, but today the role of repressive law and authority is taken over by the church. And the church is the fundament of collective consciousness, with repressive religious laws, like the abortion law. The homogeneity in communism was that a Pole was a communist, today the homogeneity has reconstructed to that a Pole is a catholic.

Morality is concerned with how individuals relate obligations to situations. The source of these obligations may be shared beliefs, religious, or it may be more directly located in the objective requirements of social solidarity. Therefore I compare communism to Catholicism, for when Poland abandoned communism, there occurred of course differences in the country. But the differences that took place were: open and free market, economic changes, global trade, political freedom and so on. The difference that didn't take place was the difference in mentality of the people.

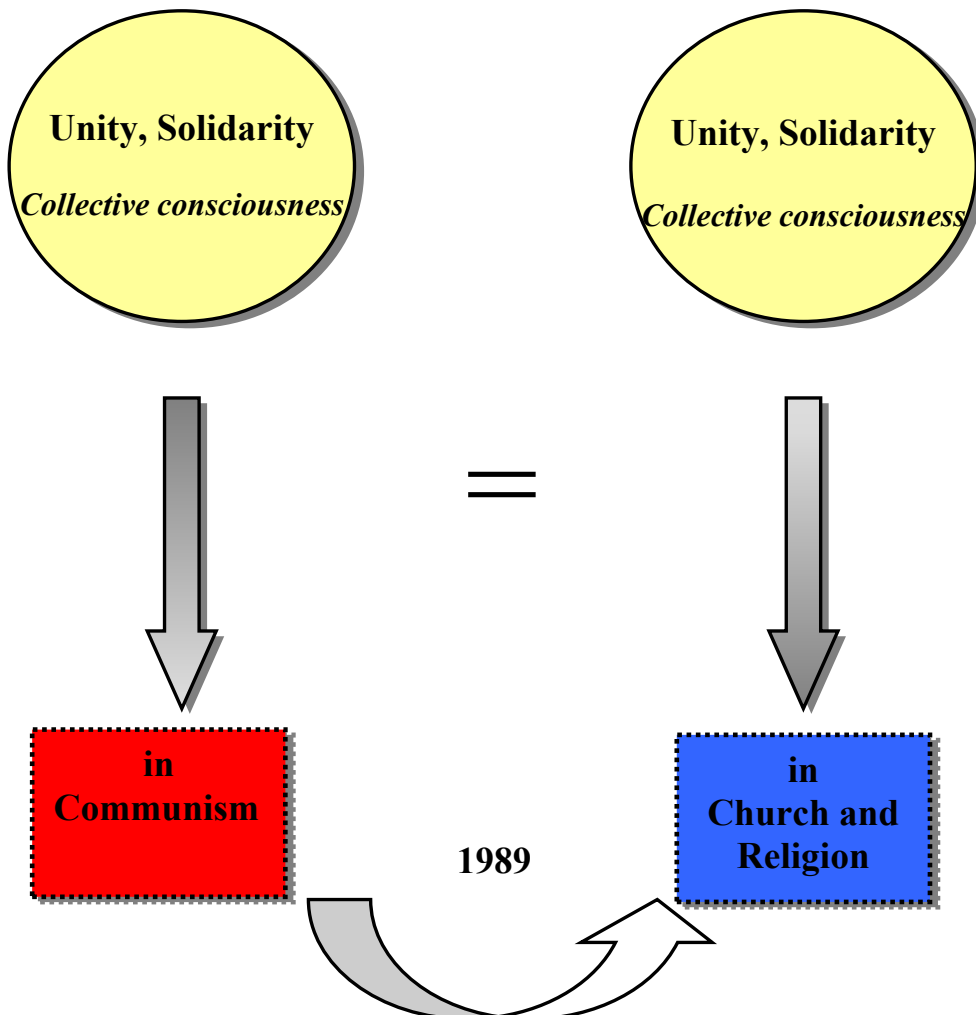
At this time I have to explain my point of view. As I understand Durkheim's thesis when he claims that what matters in religion and other forms of social solidarity is the idea of something greater than the individual him/her self. Now this in easier and shorter words could be said that a mechanical solidarity is found in a society where: the society forms the individual and the organic solidarity²⁶ is found in a society where: the individual forms the society. First I have to make the distinction that when I discuss mechanical and organic solidarity I **do not** refer to the Polish society as a whole. I'm referring to the cognitive mental understanding the Polish people have towards society. That is to say, I'm developing fragments of Durkheim's theory to enlighten today's modern society. Durkheim refers to mechanical solidarity as a model of a society with a

²⁵ Emile Durkheim, 1997, "The division of Labor in Society" page: 31 f

²⁶ Organic solidarity – when the individual is in focus, the solidarity between individual's is through the division of labor when individual's need for other individuals in society is what holds people together in solidarity.

collective consciousness, I refer to it as a model of the polish people's mentality. Which I believe is possible for Durkheim states that "collective consciousness is the totality of beliefs and sentiments common to the average member of a society".²⁷ The distinction between consciousness and mentality is drawn in the way I apply the definitions. Consciousness is the psychological processes through that all individuals perceive themselves and society. Mentality is the emotional aim and direction of the consciousness, the definition mentality, has also often a negative feature which consciousness doesn't have. Mentality could be seen as a result of consciousness.

Durkheim wrote his book "The Elementary Forms of the Religious Life" in 1915. His theory is still very relevant, but in that time he probably didn't come across a society that had the form of an organic solidarity but the mentality of a mechanical solidarity. Poland had its political systems and ideology implemented from other countries, from the former Soviet Union and their "democracy" from USA. It is not so simple to change the



mentality of people just by changing systems. So the model I have presented is not a model of the polish society, but of polish mentality. There are many that would argue that communism is not a mechanical solidarity for every individual acquires everything "according to his or her

²⁷ Emile Durkheim, 1915, "The Elementary Forms of the Religious Life"

needs”, and there is a division of Labor. But the point that they would be missing is that communism in theory and ideology is entirely different than the one that was applied in Poland.

Karl Marx was only used and misinterpreted for means of controlling society. And no one was an individual, every body had to work for a higher purpose (the collective) and something greater than themselves. The theory of communism has never hurt anyone, but Russian communism (stalinism) in practice has.

There would probably be just as many that would argue that Catholicism is not a mechanical solidarity, and these people would use just the same arguments as those who argue that communism isn't a mechanical solidarity. The arguments would also be that in Catholicism every individual needs God, and every individual has different needs. But the same fact can be acknowledged here, thus Catholicism and all forms of Christianity and the words of Jesus have never hurt anyone in theory, but they have, just as communism, been used to control societies, fight wars and justify murder.

The point is that both communism and Catholicism in Poland tells the individual and the collective how they ought to live, it is the ideology that shapes society, not the individual that shapes society, as in an organic solidarity.

Durkheim means also that morality seems to link law, which enhances the most pressing demands of social duty, with the kind of generalized belief that religion represents. Morality in law has something of a social function of religion, focusing and attaching individual's social identity to something greater than himself or herself.

This is what gives religion its universal aspect. Wherever and whenever it exists it is a “spiritual discipline” and “a means enabling men to face the world with greater confidence”.²⁸ Durkheim developed a twofold position on religion. On the one hand, religious ideas and practices are the *source* of everything social. In principle everything is religious. Thus, religion gave rise to law. On the other hand, there is something *permanent* in the social phenomenon that religion represents. Its social function is necessary in a society.²⁹

In impressing on individuals a sense of the sacredness of something outside themselves, religion summarizes a sense of life lived not by the individual in isolation but in common with other people, and by past and future generations. It locates individual life in a larger pattern, and thereby gives meaning and direction to it.³⁰ For Durkheim, religious belief is always belief in abstract forces of some kind. Like abstract forces in communism's philosophy or philosophy in religion. And, as has been seen, the abstract force that, for him, gives meaning to the individual life is

²⁸ Emile Durkheim, 1915, “The Elementary Forms of the Religious Life” page: 190

²⁹ Ibid, page: 427

³⁰ Emile Durkheim, 1915, “The Elementary Forms of the Religious Life” page: 225

a discipline willingly adhered to, believed in as a matter of commitment, internalized in the individual's way of thinking and acting. Thus, it seems that religious belief, in Durkheim's very specific sense, can be partly translated into a *belief in regulation* – like during the communist period, or today the abortion law, including, no doubt, a belief in law. Religion provides an object of attachment. For Durkheim this object can only be social found in the experience of collective life.³¹

The collective consciousness is extensive, that is, the range of shared beliefs and sentiments is great in societies dominated by mechanical solidarity and repressive law. The range of shared beliefs is what holds people together whether it is a question of catholic religion or communism. It is also easier for the state, or church, to uphold legitimacy when it promises you something you can never prove that you are not receiving. A religious law that promises you “heaven” if you obey the rules, can never be proven wrong for the dead wont come back to tell us the truth. That’s why this collective consciousness (the church) won over the other (communism), but neither one of them brought freedom to the individual mind.

Durkheim's established vision of law depends in certain respects on his view of religion. Religion is understood in a distinct, sociological way, as fulfilling a social *function*. It is a source of meaning for individual lives, something individuals can relate to as greater than themselves, giving direction, confidence and a source of authority, a grand scheme to which the seemingly insignificant details of life can be related, an ultimate source of values and understandings.³² It is means of making sense of the fact that the life of the group (society) continues while its individual members are born and die.³³ Durkheim states that the link between law and religion is not through law expressing religious ideas, like the aborting law in Poland or the law about religious teaching in schools in Poland. The biggest problem is that the individual is forgotten in this process. When “something bigger than us” and “social solidarity” is the most important thing, the individual suffers for the rest of society.

The woman in Poland who doesn't want a child, or can't have the child has to give birth to it so that the morals, law and authority of the church wont be compromised. Or as the church would say; so that heresy and murder of unborn children won't spread. Law and religion have certain similarities as social phenomena. They are both focused on duty and commitment. They impose obligations on those who subject to them, who accept their authority. And ultimately law, like religion, is not merely a matter of duty or obligation.

The ultimate logic of Durkheim's position is that, up to a point, law must also be, like religion, a focus of willing allegiance, something to be believed in and get involved with. If the comparison with religion is

³¹ Ibid, page: 10, 47

³² Emile Durkheim, 1915, “The Elementary Forms of the Religious Life”, page: 190, 225-6

³³ Ibid, page: 268-9

pressed further than Durkheim himself does, it can be noted that religion, like law, may intimidate those subject to its authority and be used as a weapon.³⁴ If the law in Poland would be something to believe in the church wouldn't be needed as much, its legitimacy would fail. If the Polish legal system and its political system would have as much legitimacy as the church, maybe people would stop seeing the church as an institution of ultimate truth and justice. A religious faith is one thing; the priests or lay believers who use it to exert power over other individuals may be quite another.

A church (like a society under law) can be considered a community. But every church has its leaders, its doctrinal disputes, its power struggles, its enemies and its methods of social control over those within and beyond its membership. People may be forced sometimes through physical violence to believe, or to behave as though they do. Certainly Durkheim has little interest in these matters of power and cruelty. But a sociological link of law and religion could highlight them. Law, like religion, is a site and an instrument of power and conflict. Nevertheless, it may also be a focus of commitment; attachment and solidarity. It is a source of duty and responsibility, but also of identity, of moral meaning as well as discipline in individual lives.

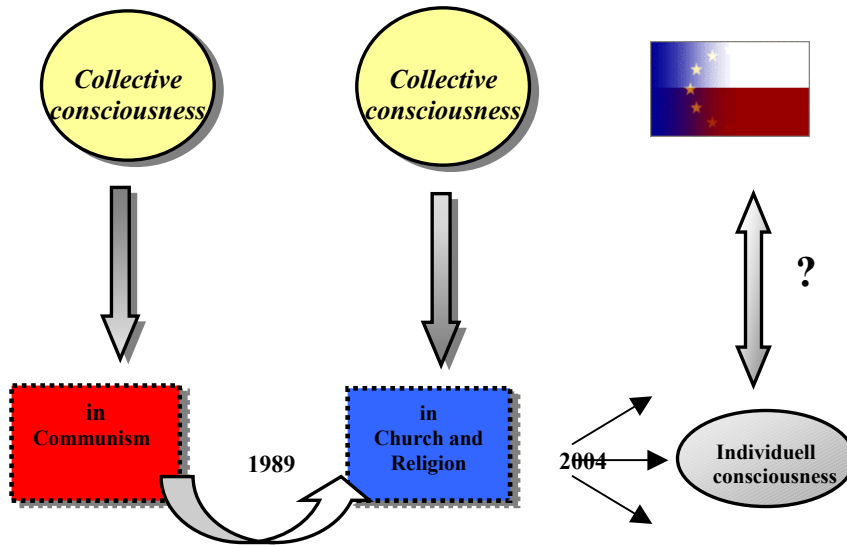
1:3 What could the European Union mean for Poland?

This question; *What could the European Union mean for Poland*, could be answered by complementary analysis and research, the analysis I have used in the first chapter of my paper could be a base on which this question could be thoroughly answered in both positive *and* negative enlightenment.

The European Union could be a chance for the Polish government to finally be stable in itself without the Church as an alliance. If not, at least stabilize itself as the other European countries. Maybe the time has come for Poland not to have an implemented democratic system that cannot work without support. If the state would achieve more legitimacy within itself and without religion it could initiate effort towards an organic solidarity.³⁵ Poland could have solidarity with the individual and human rights in focus, not just in legislation but also in practice.

³⁴ Roger Cotterrell, 1999, "Emile Durkheim-Law in a Moral Domain" sid: 53-55

³⁵ Organic solidarity – when the individual is in focus, the solidarity between individuals is through the division of labor when individuals' need for other individuals in society is what holds people together in solidarity.



If Poland will feel as part in Europe and the organic solidarity with EU will be strong they could automatically leave their mechanic solidarity. And if the transition to EU will be communicative and go slowly and smoothly this time (not like in 1945 after the war, or 1989 after communism) the polish people won't feel neglected once again, and they will feel needed and as a part of Europe's economy, politics etc. EU could mean that people's mentality would start changing to a more global thinking with the individual in focus.

This is a notion that could be further analyzed with "labelling theory".³⁶ Labelling theory could analyze the new role Poles will engage in, in EU. I've stated that, for a Pole it is not enough to be a Pole, the individual has to believe in something bigger than himself/herself, that is to have a label like: "Pole-communist", "Pole-catholic" or maybe in the future: "Pole-European". With every label comes a role, a communist has to respect and behave according to the ideology and a catholic has to abide to the christen rules. So maybe the individual European role could pass on to Poles.

³⁶ Labelling: grouping, classification, categorisation

2. What role does the Polish Roman Catholic Church play in Polish legal practice, concerning the law on ethnic minorities and the abortion law?

Before I initiate my discussion and argumentation about the role of religion in Polish Law I want to point out that when I have a discussion about the religion in Poland and the Polish Roman - Catholic Church I *only* refer to the Polish Roman - Catholic Church. I mean not to criticize religion, even if I use the term occasionally, because that's not my territory, what I am interested in is the Polish Roman - Catholic Church's interference with law and politics. In my opinion there is a distinct line between religion and the Polish Catholic Church, the Polish Catholic Church is not based and built upon religion; it is based and built upon power with religion as an excuse.

2:1 Ethnic minorities and the Polish Roman-Catholic Church

With respect to national religiosity, the Roman Catholic Church strongly authorized the view that Polish people have been chosen to transfer true religion into the next millennium. Real Polish culture has been portrayed as a religious one, that is to say, as connected with Roman Catholicism. At the same time the Polish culture has been contrasted with "immoral and pagan" western culture. Religious multiplicity of the West has been presented as a group of various heresies. The Church is teaching that the Roman Catholic Church in Poland is superior to all other forms of religion. To be Catholic is presented not only a religious but also as a patriotic duty. For many members of the Church their membership has played a role in the political antagonism against the communist government. The Church has identified all confessions, which differed from Catholicism, as wrong and not truly religious.³⁷

A factor, which influences how Polish society is blind to religious belief's other than Roman Catholicism stems from the unification of Catholicism into the national stereotype. To be a Pole means to be a Roman Catholic. In contrary to be a Pole and to be at the same time an Orthodox, or a Protestant means in social context to be a lesser Pole because of the non-Polish religious confession. In the social context all religions apart from Roman Catholicism are equally new, alien and they are characterized as outsiders of the society³⁸. But what does Poland's constitution say about this? Is it possible that the Polish society and the Catholic Church go against its one constitution?

³⁷ (Nowicka 1993) www.georgefox.edu/academics/undergrad/departments/soc-swk/ree/GRZMALA.doc

³⁸ *ibid*

Article 25

Churches and other religious organizations shall have equal rights.

(2) Public authorities in the Republic of Poland shall be impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life, and shall ensure their freedom of expression within public life.

(3) The relationship between the State, churches and other religious organizations shall be based on the principle of respect for their autonomy and the mutual independence of each in its own sphere, as well as on the principle of cooperation for the individual and the common good.

(4) The relations between the Republic of Poland and the Roman Catholic Church shall be determined by international treaty concluded with the Holy See, and by statute.

(5) The relations between the Republic of Poland and other churches and religious organizations shall be determined by statutes adopted pursuant to agreements concluded between their appropriate representatives and the Council of Ministers.³⁹

Article 35

(1) The Republic of Poland shall ensure Polish citizens belonging to national or ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture.

(2) National and ethnic minorities shall have the right to establish educational and cultural institutions, institutions designed to protect religious identity, as well as to participate in the resolution of matters connected with their cultural.⁴⁰

The representatives of other beliefs feel discriminated not only in a social sense but also in respect to their professional carrier. Their feelings come from the fear of possibly being assimilated as a group into the Catholic majority, because in case of mixed marriages the Roman Catholic Church requires that children will be educated in the Catholic religion.⁴¹ In the long run the policy would result in failing numbers of young people of other faiths. In addition the children of religious minorities feel that they would risk violence if they unveil their religious beliefs to their schoolmates in primary school. The reason for this hidden intolerance seems to be that the majority of people in Poland associate the notion of being Catholic with being an honest and valuable member of the society.⁴²

³⁹ Poland – Constitution, Adopted by National Assembly on: 2 April 1997, Confirmed by Referendum in: Oct 1997

⁴⁰ *ibid*

⁴¹ Madrzycki, 1980). www.georgefox.edu/academics/undergrad/departments/soc-swk/ree/GRZMALA.doc

⁴² *ibid*

But when you study the Polish constitution you cant find any trace of this.

Article 48

(1) Parents shall have the right to rear their children in accordance with their own convictions. Such upbringing shall respect the degree of maturity of a child as well as his freedom of conscience and belief and also his convictions.

(4) The religion of a church or other legally recognized religious organization may be taught in schools, but other peoples' freedom of religion and conscience shall not be infringed thereby.

(5) The freedom to publicly express religion may be limited only by means of statute and only where this is necessary for the defense of State security, public order, health, morals or the freedoms and rights of others.

(6) No one shall be compelled to participate or not participate in religious practices.

(7) No one may be compelled by organs of public authority to disclose his philosophy of life, religious convictions or belief.

Article 81

(1) Citizens of the Republic of Poland, irrespective of nationality, race, or religion, shall enjoy equal rights in all fields of public, political, economic, social, and cultural life. Infringement of this principle by any direct or indirect privileges or restrictions of rights by reference to nationality, race, or religion shall be punishable.

(2) The spreading of hatred or contempt, the provocation of discord, or humiliation of man on account of national, racial, or religious differences, shall be prohibited.⁴³

During most of its history, Poland was a multiethnic society that included large numbers of Belarusians, Germans, Jews, and Ukrainians. World War II and the migrations that followed reduced this ethnic variety. The Jewish population, which in the interwar period was over 10 percent of Poland's total and over 30 percent of Warsaw's total, was reduced by approximately 3 million during the Holocaust.⁴⁴

Poland's communist governments, which always emphasized ethnic homogeneity, had not differentiated ethnic groups in official market research statistics. As a result of this process, in 1990 an estimated 98 percent of Poland's people were ethnically Poles.⁴⁵

To think that the homogenized mentality and approach of the former Polish's communist government is "gone" could be quite naive. Maybe it only has another form today. Perhaps today every body should be "Polish-Catholics".

⁴³ Poland – Constitution, Adopted by National Assembly on: 2 April 1997, Confirmed by Referendum in: Oct 1997

⁴⁴ Library of Congress Country Studies, Data as of October 1992
[http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field\(DOCID+pl0078\)](http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field(DOCID+pl0078))

⁴⁵ *ibid*

The Anti-Defamation League (ADL)⁴⁶ has urged the Archbishop of Gdansk to take official action against a Polish priest (Father Henry Jankowski) who was again making anti-Semitic statements in his church. There was an uproar created by the Roman Catholic priest a few years ago when he made these remarks during a sermon in the presence of the President of that time Lech Walesa. "Unfortunately, Father Jankowski is not only making further anti-Semitic declarations," wrote Abraham H. Foxman to Archbishop Tadeusz Goclowski of Gdansk, "but he has apparently disavowed his apology."⁴⁷

To influence Archbishop Goclowski to take some official action against the Gdansk cleric, Mr. Foxman wrote, "It is clear that Father Jankowski, unrepentant for his earlier remarks, is continuing to use his church to propagate anti-Semitism."⁴⁸

According to press reports⁴⁹, Father Jankowski arranged a assembly in his church, when he gave out his book, "Father Jankowski Has Nothing to Apologize For", Father Jankowski said at the meeting: "I have nothing to repent for and none to whom I should apologize for my words." At the meeting, the priest made more anti-Semitic statements, "Why shouldn't we talk about such things as the murder of Germans by Jews? Why may we not talk about the Jewish-Communist administration that governs Poland today? The reason is that they have banks, and everything, in their hands."⁵⁰

Father Jankowski and other intolerant church members, have also often been discussed by politicians, even officially in the media, you can ask yourself how it is possible that the state knows about such events, knows that the nations constitution forbids it, yet doesn't do anything about it.

The legal regulations about the Church-State relationship are very interesting. The present regulation for the Church-State relationship was voted in the Parliament in 1989. According to this regulation various religious bodies could claim their previously owned property from the State. (The property of religious denominations had been nationalized in 1954). A general estimate of the claims numbered close to six thousand cases. In fact, there have been no more than three thousand claims. The joint Government-Church Commission has decided on only cases brought by the Roman-Catholic Church. All other religious bodies have had to rely on the decision-making power of the Polish Prime Minister. No joint commissions have been created for setting their claims.⁵¹

Legal regulations about the relationship between the State and various religious bodies are currently at the beginning period of their progress. But

⁴⁶ The Anti-Defamation League, founded in 1913, is the world's leading organization fighting anti-Semitism through programs and services that counteract hatred, prejudice and bigotry.

⁴⁷ Press Release, New York, NY, December 14, 1995. The Anti-Defamation League (ADL) www.adl.org/presrele/ASInt_13/2629_13.asp

⁴⁸ *ibid*

⁴⁹ *ibid*

⁵⁰ *ibid*

⁵¹ (Madrzycki, T. (1980). "Influence of the attitudes towards religion on perception of the individual and social contacts". University of Gdansk.)

the more serious danger in which the Roman-Catholic Church is likely to be caught is the division process of the society.

Psychological research conducted by Skarzynska in 1994 on representative groups of Polish youth age 18-20 show that the respondents could be classified into two distinct groups “winners” (12%) and “losers” (40%). The “winners” see their future as a promising one, they perceive themselves as well organized for a professional career, and likely to find an interesting job. There are also no unemployed members of their families. The “losers” who see their chances on the job market as very slim recognize themselves as inadequately prepared for a professional career, some members of their families are already unemployed. The winners more often state themselves as non-believers; in that order losers see themselves as believers.⁵² If a growing part of society, locates itself on the losers' side, and start to use religion as an explaining argument for opposing the democratic changes of the society, this will be a real danger. These elements of society could use the role of religion as means for creating a separation between "us" and "them", and as an excuse for opposing changes toward a more open society.⁵³ If people are weak it is easy for religious authorities to manipulate them.

2:2 The Abortion Law and the Roman Catholic Church

When Communism collapsed, the position of the Roman Catholic Church hierarchy significantly increased. Since then, the Church leaders have been exercising a strong impact on legislators and the Government. Their main area of interest is reproductive health and rights. The Roman Catholic Church has influenced strongly both the legislation on abortion, family planning and sex education and its implementation. The Roman Catholic Church has worked closely with Christian National parties and the Pro-Life movement and was one of the most important actors in banning abortion.

Although the majority of the society, despite its Catholicism, does not support the ban on abortion, the direct involvement of the Church in the activities against reproductive rights and, particularly, the role of the Pope John Paul II who is beloved by the Polish society, obstruct the establishment of a stronger, better organized and more effective pro-choice movement. The Pope, who is well known worldwide for his extreme anti-abortion position, speaks often to Poles and always makes very strong statements on abortion. When the Parliament liberalized the law in 1996 the Pope said, "The nation who kills its own children is a nation without a future".⁵⁴

Only months before Poland enters into the EU, Poland's powerful Roman Catholic church is demanding that wording must be added to the treaty

⁵² (Skarzynska 1994) www.georgefox.edu/academics/undergrad/departments/soc-swk/ree/GRZMALA.doc

⁵³ (Madrzycki, T. (1980). "Influence of the attitudes towards religion on perception of the individual and social contacts". University of Gdansk.)

⁵⁴ Preventing and addressing unsafe abortion a technical consultation, 8-11 December 1997 who, Geneva Poland: case study on legal instability concerning abortion

guaranteeing the country's strict anti-abortion laws against interference from Brussels.

In discussions it became obvious that very few people on any side of the abortion question challenge the assumption that it is a matter of legislating "the Catholic position." In other words, abortion is presented as a religious question.⁵⁵

With Poland's Pope John Paul II deeply opposed to abortion, a new law banning the practice was enacted in 1993. But the Pope is also a strong and enormously influential supporter of Poland's EU membership. While some Catholic nationalist media in Poland are running a risky and powerful anti-Brussels campaign, the church leadership is firmly behind EU membership while also seeking to defend conservative family values. Abortion was effectively outlawed in 1993, with exceptions allowing abortions in cases where the mother's life was in danger or when pregnancy was a result of rape or incest. A liberalization adjustment, allowing abortion in the case of "difficult living conditions" was approved in 1996 but survived only briefly before, in 1997, parliament re-instated the law of 1993.⁵⁶

The immensely troublesome issue looks likely to help polish EU skeptics in their "No" campaign at the forefront of the June referendum on joining the union. They are painting Brussels as a bastion of liberal, secular pro-abortionists. The Polish government is worried that the potency of the abortion issue could strengthen the No vote in the next few weeks. The government caved in to pressure from the church by sending a note to Brussels seeking assurances that "no EU treaties or annexes to those treaties would hamper the Polish government in regulating moral issues or those concerning the protection of unborn human life" ⁵⁷.

The leftwing government of Mr. Miller⁵⁸ came into office last year pledging to ease up the abortion regime, but has since got cold feet. Mr. Miller now says there will be no reform under the recent government, while Poland's president, Alexander Kwasniewski, last week acknowledged: "The present abortion law works." The present abortion law (the law of 1993) is defined in the polish criminal law (kodex karny). The one who performs the abortion is sentenced, not the woman having the abortion.

Art. 149a.

§ 1. Who ever causes death of an unborn child will be sanctioned and deprived of freedom for a period of maximum 2 years.

§ 2. The mother of the unborn child is not under legal responsibility and will not be sanctioned.

⁵⁵ Richard John Neuhaus, 1994 - Poland: Reflections On a New World

⁵⁶ Preventing and addressing unsafe abortion a technical consultation, 8-11 December 1997 who, Geneva Poland: case study on legal instability concerning abortion concerning abortion by Wanda Nowicka

<http://www.guardian.co.uk/international/story/0%2C3604%2C884892%2C00.html>

⁵⁷ *ibid*

⁵⁸ Poland's Prime minister (Leszek Miller)

§ 3. The person performing the abortion does not commit the crime articulated in § 1, if; pregnancy is an immense danger to the woman's life, a diagnoses by two doctors other than the doctor performing the abortion is needed.⁵⁹

The parliament speaker, Marek Borowski, wants a national referendum. "The present measure is simply bad," he said. The governing Social Democrats (ex-communists), he said, are "against such tough abortion laws and understand women's rights differently from groups linked to the church or those on the political right".⁶⁰

That may be true, but the president and the prime minister, both from the same post-communist party, oppose a referendum because it would be conflated with the EU referendum and would provide a point for the euro skeptics and the church.⁶¹

As said before Polish abortion law belongs to the most restrictive abortion laws in Europe. In the majority of European countries abortion is accessible on woman's request. Even in those countries where accessibility of abortion is limited it is still more accessible than in Poland. In Spain, Portugal and Switzerland abortion is legal when pregnancy constitutes a threat to the life or health of the woman, including the threat to her mental health, as well as when the pregnancy is the result of rape or other sexual crimes and in the case of embryo damage. In Hungary abortion is legal additionally in case when a woman has difficult life conditions. Only Ireland has a restrictive law like Poland. Abortion is legal in Ireland when the woman's life is threatened, including a situation when there is danger of suicide. This kind of though abortion law is a specifically Polish phenomenon and it results from the flawed character of the law. The law allows *for free interpretation* of provisions regulating accessibility of legal abortion.⁶² Lack of mechanisms of control as well as "feudal" relations governing hospitals allow for situations when the director of the hospital makes a decision on his own to refuse an abortion and does not take into account the opinion of other doctors who, privately, have a different view on the issue. The conscience clause gives an individual doctor, not a whole hospital, the right to refuse to perform an abortion. In other countries law precisely describes the question of refusal to do abortions on the ground of the clause of conscience. It gives the doctor the right to refuse to perform the abortion but also provides for the woman's right to have an abortion. The doctor who refuses to do it is obliged to direct a woman to a doctor who will perform it. In Poland this issue has not been regulated. Moreover, the pressure from priests active in hospitals also has influence

⁵⁹ Criminal law, (kodex karny).Family XXI. Crime against life and health.
[Http://eber.kul.lublin.pl/~fajgiel/Ap/Kk_old/kk21.htm](http://eber.kul.lublin.pl/~fajgiel/Ap/Kk_old/kk21.htm)

⁶⁰ Preventing and addressing unsafe abortion a technical consultation, 8-11 December 1997 who, Geneva Poland: case study on legal instability concerning abortion by Wanda Nowicka
www.guardian.co.uk/international/story/0%2C3604%2C884892%2C00.html

⁶¹ *ibid*

⁶² *ibid*

on the issue. It happens very often that priests or other persons connected with the Roman-Catholic Church interfere.⁶³

The language of anti-abortion campaigns

Abortion has often been match up to with "concentration camps," "holocaust," "death of civilization", "betrayal of the Polish nation" or simply "murder."⁶⁴ That's why language has played an important role in the debates on abortion. The anti-abortion law has introduced new concepts into Polish official language, such as the concept of a conceived child. The Polish Criminal and Civil Codes replaced the fetus with a conceived child. Women's right to choose or women's reproductive rights have not provided arguments tough enough to oppose the language used by the anti-abortion movements.

These arguments are positioned low in the anti-abortion hierarchy of values, much lower than protection of the life of an unborn or protection of the life of a conceived child.⁶⁵ Now, even the medical organization is using this term, in spite of its ideological, non-medical character. Another new expression created and adopted in the anti-abortion law and consequently, in legal codes and other relevant documents, is "mother of a conceived child," which stands for a pregnant woman.⁶⁶

The role of medical community

The medical organization has taken a tough anti abortion position. In 1991, before the law was transformed by the Parliament, the General Chamber of Physicians adopted the Ethical Code of Physicians. The General Chamber of Physicians worked together intimately with the Roman Catholic Church authorities in the developing of the Code. According to the Code, abortion might be performed merely when a woman's life or health was in great danger or when pregnancy was a result of crime. The Ethical Code caused public hospitals to stop performing abortions *even before* the Parliament transformed the law. Few doctors would have courage to speak in public in support of more liberal abortion rules. None of them would admit publicly to performing abortions. But many gynecologists perform abortions illegally for a large amount of money.

Genetic deformity of the fetus is no justification for abortion. The accesses to prenatal examinations are also limited on the basis that it could affect the fetus.⁶⁷

⁶³ Preventing and addressing unsafe abortion a technical consultation, 8-11 December 1997 who, Geneva Poland: case study on legal instability concerning abortion by Wanda Nowicka www.guardian.co.uk/international/story/0%2C3604%2C884892%2C00.html

⁶⁴ *ibid*

⁶⁵ *ibid*

⁶⁶ *ibid*

⁶⁷ Report on the Consequences of Anti-abortion Law, page 5, The Federation on Women and Family Planning, 1994 www.waw.pdi.net/~polfedwo/english/public/odn.htm#14

Consequences of the 1993 anti-abortion law

Two reports on the consequences of the 1993 anti-abortion law subjected by the Federation for Women and Family Planning (1994, 1996) provide an analyses how the law affects women's reproductive rights and health. The anti-abortion law has resulted in some negative consequences for women's reproductive health. Its central effects were found to be the following: The law has turned out to be more restrictive in practice than on paper. The law has affected mainly the poorest and the uneducated members of the society.

Many women, who were legally entitled to have an abortion, were often denied this right in local hospitals.⁶⁸

The law did not stop abortions on social grounds, it pushed them into the "underground." Women seeking abortion would either go abroad to have it or find a doctor who would perform it illegally. These two facts are called "abortion underground" or "abortion tourism."⁶⁹

The Government in its report of 1996 on the implementation of the law on family planning recognizes the failure of anti-abortion regulations. In the part of the report prepared by the Ministry of Justice on criminal charges concerning abortion it is stated: "It is necessary to indicate the disadvantages of the (anti-abortion) law. The family members who were in conflict have been ill-treated. The law led to individual and social tragedies, because these regulations did not allow abortions on social grounds". The Government report also recognized the low effectiveness of the regulations in reducing the number of illegal abortions.⁷⁰

The experience of some woman

The case of Joanna B.

Joanna B. had very serious mental problems: strong depression accompanied by suicidal attempts. She had been treated with strong drugs for a year and a half. The treatment was disrupted because she got pregnant. She received a referral to the hospital to have an abortion because of the danger to her health and life, which was signed by two psychiatrists.

The first hospital, that she was referred to, refused to perform the abortion and she was treated in a humiliating way. At the same time she was offered an abortion for large amount of money. She tried another hospital. The director of this hospital, in conversation with the guardian of the girl, did not clearly refuse to do the abortion, but he ordered to obtain another certificate that would include the word "absolute" threat to life. After this conversation, the member of the Women's Rights Center and the author of this report went to talk to the director of the hospital. The director turned out to be against abortion altogether. He treated the certificate solely as an

⁶⁸ Preventing and addressing unsafe abortion a technical consultation, 8-11 December 1997 who, Geneva Poland: Case study on legal instability concerning abortion by Wanda Nowicka

⁶⁹ *ibid*

⁷⁰ *ibid*

excuse. He did not even make an effort to examine the patient. He did not want to treat this case individually but he recognized the features known to him from previous cases. When asked about the legal ground for questioning the certificate he referred to many examples of women who, according to him, were trying to have an abortion without sufficient reasons. At some moments he suggested that he was afraid of legal consequences of performing the abortion, that such a decision could cost him dearly. He said that if a nurse or an orderly informs on him to the priest, it could result in serious consequences. He even referred to his private life. He was wondering what he would do if his 13 year old granddaughter was raped. He could not make up his mind. He talked about a case of a 13 year old pregnant girl, whom he also did not allow an abortion for.

Once she noticed that her efforts in this hospital are hopeless, the patient went to another one where one of the doctors, after long persuasions agreed to do the abortion. The whole experience lasted 4 weeks. During that time the woman did not take the drugs and she experienced serious decline in her state of health.⁷¹

The case of Anna S.

In 1992 Anna S. had an outdated IUD inserted, which resulted in pregnancy. In summer 1993 she had an illegal abortion for 500 USD, which was accompanied by many problems (the coil was found damaged during the abortion). Finding a doctor who would do the abortion was not a problem. It was only a question of price. The highest was 750 USD, but in her hometown one could have it for less than 200 USD. When all methods of contraceptives failed (Anna could not use the pill) her husband decided to have a vasectomy. Sterilization is illegal in Poland. It took one and a half year to have this done. During all that time they were not having sex out of fear. Finally they found an urologist who performed the vasectomy for 500USD. But the operation was only partial. The doctor, who had to do everything on his own, operated one sperm duct only. In the second attempt he operated the other sperm duct. But the examination afterward showed that the patient is still fertile. The third time he went to the hospital for two days. The operation was carried out with a full operating staff. In order for the intervention to be carried out officially the man was issued a certificate to have an opposite intervention of reanimating the sperm ducts, thus making him fertile again. Obviously all the staff from nurses to the main operating doctor knew what operation was really being carried out.

⁷¹ Preventing and addressing unsafe abortion a technical consultation, 8-11 December 1997 who, Geneva Poland: case study on legal instability concerning abortion by Wanda Nowicka

The most horrific case I came upon in WHO's case study's was:

The case of Grażyna Z.

In spring 1995 one of Warsaw hospitals admitted a 41 year old woman living near the town of Nowy Dwór Mazowiecki who was suspected of having a brain tumor. She was already a mother of 7 children. She had an encroaching paralysis and was in the eighth week of pregnancy. Doctors surgeons and neurosurgeons issued a certificate that the pregnancy should be terminated because of the patient's severe state. She was going to have an abortion. This information reached a priest who pressured both the woman and her husband to have the baby. The priest reported the information to the public prosecutor's office and the office got interested in how the information left the hospital (breach of confidentiality) and initiated an investigation. Under the pressure of the priest the doctors involved met again. A new certificate was issued which stated that the pregnancy constitutes a threat to both the woman and the embryo but it also stated that the pregnancy does not have to be terminated. According to her husband both he and his wife wanted to abort the pregnancy. She knew she would never fully recover. When she learned that the doctors did not agree to the abortion she moved to a different Warsaw hospital. In the new hospital no one talked to her about the pregnancy and she did not talk to anyone. The doctors diagnosed that she had a severe damage of the brain stem. She was given a treatment as if she was not pregnant: she was treated with antibiotics, radiation (computer examinations) and resonance (electromagnet). Finally she was given a choice: she would either have an exploratory operation or would be discharged on her own responsibility. Thus, she was provoked to leave the hospital. In June she left it on her own request. In December 1995 she gave birth to her eighth child. Her state was permanently becoming worse. She couldn't work at home or take care of her children. Her husband was taking care of her and the family and, thus, he couldn't work outside the home. The family was living on the verge of poverty. When asked about contraceptives the woman said that no one had ever talked to her about them. Only her first child was wanted. When she was pregnant with the last baby, she was scared that the child would be sick after all the treatment that she went through. The doctors were scared to touch her. If she weren't pregnant other methods of treatment could have been used, her husband said: "It was as if they were waiting for her to die so that the problem would solve itself"

She died in spring 1996, leaving eight children without a mother.⁷²

One of the problems in the last case was that the woman didn't know anything about contraceptives. There are many obstacles that limit the availability and usage of contraceptives in Poland. Among them is the consistent propaganda of the Roman Catholic Church against family planning, the propaganda exists in sermons as well as during confessions

⁷² Preventing and addressing unsafe abortion a technical consultation, 8-11 December 1997 who, Geneva Poland: case study on legal instability concerning abortion by Wanda Nowicka

or religion classes. Also catholic media and organizations that promote natural family planning methods lead a campaign against contraceptives.

This campaign is fought in two ways: on the one hand, religious arguments are used (that using contraceptives is a sin) and on the other - quasi-medical arguments are engaged (that contraceptives are harmful). Some schoolbooks on sex education recommended by the Ministry of Education contain false information. They prove that other methods of family planning (like condoms) are much more harmful, morally evil and much less effective than the natural ones, while the natural methods are highly effective.

Extracts from the book by M. Ombach *"In Search of Real Love"*. The book is recommended by the Ministry of Education and is on the list of textbooks for teaching the subject in post-primary schools.

Page: 86-87: *"Even if contraceptives had only the effect of preventing conception, and if they wouldn't damage the babies in the initial stage of their life, and if they were not harmful to women's health, even then using contraceptives cannot be treated as a human right, and this is because of the moral evil that it does to the human being. Why? Let us illustrate this with the following example: A small boy is stealing apples from a neighbor's garden. His act was effective because he managed not to get caught. No one, however, will judge his behavior as right and worth following grounded in that fact. The moral evil behind contraceptives comes from the fact that they limit the sexual contact to sole pleasure, through excluding possibility of parenthood."*

page 93: *"When will people at last become fully aware that fertility means health! Contraceptives which kill fertility harm human beings because they destroy their health!"*

2:3 Law in Books or Law in Action?

Eugen Ehrlich writes and explains in his preface to the book *"Fundamental principles of Law"* his idea of law, that later can be found in his entire book. His first sentence embraces the very substance of the principles of sociology of law. The sentence states:

*"At the present as well as any other time, the center of gravity of legal development lies not in legislation, nor in judicial decision, but in society itself".*⁷³

This very sentence shows how the European Union cannot only look at the polish legislation but has to understand the society itself, which means the society's history, culture, religion, but above all the countries norms.

⁷³ Eugen Ehrlich -"Fundamental Principles of the Sociology of Law", Harvard University press 1936, page: XX

Ehrlich's main distinctions were the concept of written law and living law. He wanted to understand these concepts by social observations and studying social actions made by lawyers and people who work with law. But what Ehrlich discovered was that he couldn't find the juridical methodology through these observations, because there was none. When Ehrlich understood that there was no scientific methodology in law, he came to the conclusion that law promises something it cannot keep, and does something it doesn't understand. He means that there is no logic in law, and no logic in the way lawyers and judges think, argue and take decisions. They do this psychologically just like any other individual.⁷⁴

This is what an international organization like the European Union has to take into consideration when Poland's legislation is being analyzed. It is one thing that the constitution states something in written law, but another to make lawyers, judges and other people abide by these roles. There must also be a will to do so. A sociologist of law, Per Stjerquist, means that it is naive to form a law and think that there automatically will be results in behavior, for there to be results in behavior there has to be a motivation, a stimuli.⁷⁵

Unfortunately, if the constitution has less legitimacy than the Church's rules, and there is no motivation for people to change their behaviour, the law just exists with no life. And the international community thinks that Poland has changed when in fact, only the law has changed. In the matter of law on ethnic minorities or abortion law, we have seen above that both laws differ in written law and living law. In both cases there can be tragic consequences, when the living law has more authority than the written law.

According to Ehrlich, the only opportunity to break this pattern is to see social life, as a resource of understanding a country.⁷⁶ Professor Håkan Hydén in Lund believes that a science and study of norms will explain why values and feelings have a meaning for people's actions. He means that human action can be understood from the position that norms control actions and decisions, and these types of norms can be both individual and collective. He wants to use the norm as an explaining factor for the understanding of human actions.⁷⁷

Ehrlich points out to us that it is a mistake to think that written law, constitutions and regulations uphold a society. They are merely political instruments for those in power. He means that law is a "system", but not a system of discourse.⁷⁸ The law is reproduced on a government level.⁷⁹

⁷⁴ Eugen Ehrlich - "Fundamental Principles of the Sociology of Law", Harvard University press 1936, page: XX

⁷⁵ Per Stjerquist and Karin Widerberg, "The law in building society" Lund 1989

⁷⁶ Eugen Ehrlich - "Fundamental Principles of the Sociology of Law", Harvard University press 1936, page: XXXVII

⁷⁷ Håkan Hydén - "Normvetenskap" Lund 2002

⁷⁸ "The honest argumentation, where there is use of power and the best argument wins"

⁷⁹ *ibid* page: XXXVII

If the EU law is reproduced on a government level, and doesn't study the living law in the EU countries and the new member countries, EU will never know what living law regulates and upholds the Polish country. Erlich argues that regardless of what time we find ourselves in, what is most important for progress and development of law is not legal science or legal decision making, but society itself, the law must "ask society questions", not just reproduce itself on a government level and live its one life. The legal decision making, as it is, can never control the actual order, it can only control itself.⁸⁰ There is a need in the European Union as well as in Poland for a norm science in the continuing and future development.

⁸⁰ Eugen Ehrlich - "Fundamental Principles of the Sociology of Law", Harvard University press 1936, page: XXXVII

3. Does the current Polish legal practice assimilate with the European Unions multicultural society and the upholding of human rights?

With the entry of ten more states the European Union has a lot of work ahead. A bigger Europe could among other things mean a need for new legislation. The important thing for the European Union will be to remember that each of these countries have their own history, economy, politics, social life and norms. For it to be a successful cooperation, the European Union and each of its countries, have to put some honest effort in the transition.

The polish legislation that has been mentioned in this paper (the law on ethnic minorities and the abortion law) is strongly connected to Poland's history and social life. To enter the European Union a country must be "a politically stable functioning democracy with a legal system that respects human rights and guarantees protection for ethnic minorities".

So if EU has given Poland a "go ahead", does this mean that the country upholds this standard? If you chose to believe that EU is an institution than never makes mistakes, then you can make the conclusion that the polish law and polish legal practice is not so incorrect. For if EU accepts the current abortion law and the maltreatment against ethnic minorities, maybe it won't be such a problem? But if the European Union always would be right then no county would ever be sanctioned. And EU countries have been sanctioned for violating the convention on human rights.

Perhaps the important questions to ask is were does the European Union draw the line to what means violating human rights and what is upholding human rights. But that is a question that doubtably can be answered. Possibly problems will emerge when Poland enters EU, for then people will start demanding, not of their own government, but of EU to help them.

But is Poland actually violating human rights? As said before, the polish legislation has very few flaws. Even if we have seen in the first chapter of this paper that the Polish Roman Catholic Church's interferes in polish legislation (which we can se for example in the fact that although the majority of the society, despite its Catholicism, does not support the ban on abortion, the direct involvement of the Church in the activities against reproductive rights has been stronger) their interference in polish legal practice has much worse results. The problem lies thereby mostly in legal practice but starts with the fact that the church is allowed in the political sphere.

EU has accepted Poland's law on abortion but the question is if they know how the law works in practice.

The European Union has a European Convention on Human Rights, the convention is a system of protection. In this convention there are a number of articles that are being neglected by the Polish Roman Catholic Church, and thereby the state, because the state permit's that this happens.

Article 3: Freedom from Torture, Inhuman or Degrading Treatment

In this article freedoms are expressed in unconditional terms, but no definitions are given.⁸¹ The part that describes freedom from torture is not relevant in this discussion, but what the European commission has stated about inhuman and degrading treatment is particularly relevant.

“Inhuman treatment covers such treatment that deliberately causes suffering, mental or physical, which in the situation is unjustifiable” [...] *Further...* ”treatment of an individual may be said to be degrading if it humiliates the individual before others or drives him to act against his or her will or conscience.”⁸²

If you take the law on abortion and discuss the material that has been presented in this paper, it is almost certain that it can be stated that the law, in the way that it is applied in practice, can be interpreted as inhuman or degrading treatment. Can it get more degrading than it does for a raped woman who becomes pregnant and has to keep the child? Is that “unjustifiable mental suffering”? Can the line be drawn there? And even if the line isn’t drawn at this point, there are women (*like the example in this paper on Grazyna Z, first chapter*) that lose their lives because of this law and its realization. Isn’t that “unjustifiable physical suffering”?

The European Union has assured Poland that they will not interfere in their abortion law, but this doesn’t mean that EU can’t sanction Poland for violating human rights.

The other problem that has been presented is the problem of discrimination against ethnic minorities. The European Convention on Human Rights states freedoms from discrimination in (among others) article 14, and the Amsterdam treaty, article 6.

This problem is unfortunately very difficult to trace in legislation, here the only way to find discriminated groups or individuals, is to analyze social life and norms in Poland similar to the ones presented in this paper, like the fact that in case of mixed marriages the Roman Catholic Church requires that children will be educated in the Catholic religion, or children of religious minorities who feel that they would risk violence if they unveil their religious beliefs to their schoolmates in primary school, and the fact that all children in school have to have a Catholic education or the unimaginable fact of priests who make anti-Semitic statements.

The abortion law is linked to the law on ethnic minorities in legal practice, thus, if an individual of another belief, other than the Catholic one, is “allowed” by her conviction to perform an abortion, this person is forced to adjust and live by a “Christian law”, that in reality doesn’t have anything to do with the person in question.

A country that permits this kind of homogeneity is in fact working against a multicultural society and as a following fact against human rights as they

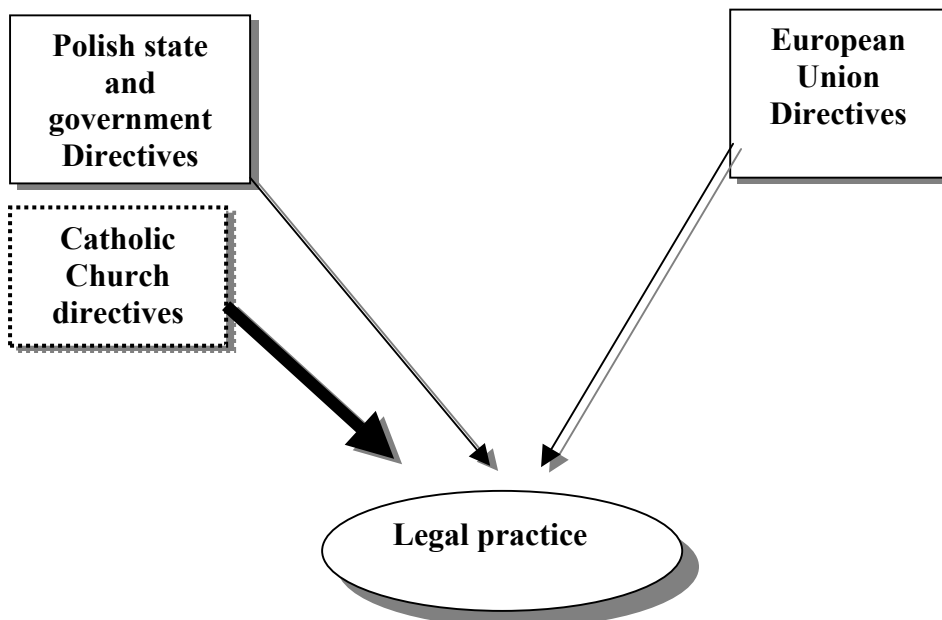
⁸¹ Iain Cameron “An Introduction to the European Convention on Human Rights” page: 62

⁸² *ibid*

are defined in the European Unions constitution and also in Poland's constitution. The homogenous collective consciousness that has existed in Poland throughout communism until today is a threat to human rights. And the fact that the "living law" in Poland is so strongly rooted in religious beliefs, which are supported by the church and state, only contributes to the almost unattainable multicultural society that EU offers.

The paradox that the European Union faces when Polish legislation is being analyzed is that they have to consider not only the written law but also the living law. If they only look at the written law they will not find the true problems in polish law. EU has to understand what kind of forces affect the living law in Poland.

I once heard a lawyer in polish media who said something I totally agree upon: "Poland doesn't need to change their law, they only need to abide by the one that exists"



If the directions, which come from state and international law to society and legal practice, are weaker then the ones the Catholic Church give, the living law will continue being the same and the religious collective consciousness will grow stronger. The international community's and the state's directions have to get stronger for there to be a change in Polish legal practice. And the communication between the Polish state and the international community has to work effectively.

3:1 What is needed for an effective communication between Poland and the European Union?

The German professor Jürgen Habermas discusses democracy in our modern society. He states that the need in society for a discourse to uphold democratic values is increasing every day. Habermas arguments that people are losing confidence for systems and organizations in society.⁸³

In the fast rate that we are moving towards a multicultural society, with many “sub societies” like the countries in the European Union, were all societies have there own problems and traditions, there has to be room for a discourse. In his opinion all conflicts have to be overcome with agreements and settlements.⁸⁴

To achieve a democratically honest dialogue without power were the best and most truthful argument wins, could be extremely hard to achieve in an international community like the European Union. Regretfully it has been perceived that it is hard before. The existing fifteen countries have had a tough time agreeing, it is going to be undoubtedly tougher to find a settlement with ten more countries. And accomplish an “arena of discourse”⁸⁵.

3:2 How it this communication accessible?

Pierre Bourdieu could have our answer to this problem, his thesis could at least make problems easier in the forming of an “arena of discourse”.

Bourdieu introduces a method and conceptions which make it easier to analyze a countries social life, these concepts need a diminutive introduction.

The relationship between symbolic capital, habitus and social field.

The social fields answer the questions to what “game rules” abide, the fields are genuine social spheres that emerge from what is at stake in the secluded field, like the religious field, the juridical field or the political field. Typical characteristics in a field are relationships between the controller and the controlled, the ones who “have” and don’t “have”, and other type of hierarchies. Bourdieu also emphasizes that there are sharp lines between different fields. Social fields are loaded with dynamics, they are like arenas were forces meet and draw in different directions. Which means that “the game” in it self is what’s at stake. There is always an ongoing battle in the social field about what game rules are valid.⁸⁶

The symbolic capital is what defines and legitimates the game rules. The concept of symbolic capital is about social power relationships, it shows what gives authority in social life. There are several forms of capital, economic capital is only one of many. Titles, family background, social

⁸³ Jürgen Habermas “Between Facts and Norms”, 1998, page: XVII

⁸⁴ *ibid*

⁸⁵ A domain were the European countries can have a free, democratic and truthful communication.

⁸⁶ Pierre Bourdieu – Article – “The Force of Law - Toward a Sociology of the Juridical Field”

sphere and everything that is seen as desirable by our norms is symbolic capital.⁸⁷

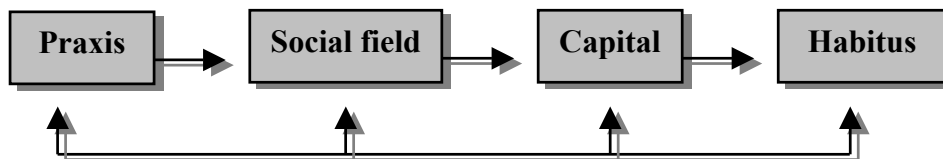
The habitus is our structured way of thinking, reasoning, judging, acting and understanding. We establish our habitus by, upbringing and socialization when we gain knowledge of functions in our surroundings.

It is our practical common sense. So habitus has two meanings, one is our mental ability to comprehend a distinction, our cognitive perception ability, the other is our ability to express our distinctions through language and actions. The distinction is a union we construct in order to have solidarity.

The relationship between symbolic capital, habitus and social field, all form praxis.⁸⁸

For the European Union to cooperate with Poland and know what is happening in legal practice and human rights, EU has to know what praxis exists in Poland. Poland also has to know what praxis exists in EU.

Bourdieu means that the method to reach this understanding can be done in the following way;



Through an analyze of praxis which we can distinguish, for instance the Roman Catholic Church's praxis or Polish legal practice and the realization of human rights, we will know what is characteristic for the social field, what forms of symbolic capital the field requires and in what way individuals approach the field through their habitus. If an analyze is made on polish legal practice, then we can achieve a knowledge of what functions and game rules apply in the studied field and what capital counts.⁸⁹ When we attain this knowledge we will know what habitus forms the capital that counts in the social field and builds the practice. We will have an understanding for what needs to be changed in Poland's legal practice for it to improve. Through this method we will have facts on what norms abide, and the EU will have a much more straightforward integration with Poland.

⁸⁷ Pierre Bourdieu – Article – “The Force of Law - Toward a Sociology of the Juridical Field”

⁸⁸ *ibid*

⁸⁹ *ibid*

Closing Arguments

If all countries in the European Union are meant to be democratically equal in law there can't be any extent for religious rules in law, thus these rules will only be legitimate for the religious group that supports them.

In a multicultural society such rules are non democratic.

For all Muslims, Protestants, Jews, Gypsies, Buddhists and other ethnic or religious groups or even atheists, life in some situations can be hard in Poland because of the country's historical and current intolerants.

This intolerants can unfortunately be to immense extent blamed on the Roman Catholic Church.

The Churches eagerness to control and rule the Polish nation can destroy the life of the individual, like the women presented in this paper or the ethnic groups being discriminated. Regrettably this paper has shown that one of Poland's leading "skeletons in the closet" as I referred to problems Poland could have when entering the European Union in my introduction, is the Polish Catholic Church because of the norms and values it teaches and how these norms affect legal practice.

Because of Poland's turbulent history there is a need for a healing process. What Poland needs to successfully accomplish its healing process is a good "psychologist", who will not only tell them how to solve their issues, but will make the country see what the main cause of its evils and its mistakes are.

This is where the European Union comes in. EU, because of its different social groups, norms and values can be Poland's psychologist and lead them in the right direction to resolve their issues, since its objectivity.

But EU can also alienate Poland if they won't understand Poland's history, social groups, norms and values. If EU alienates Poland their problems will only grow stronger. And stronger church could among other things mean further violation of human rights.

The future is not certain for any country in the EU. Maybe EU won't interfere at all in Poland's legal practice. Maybe the European Union needs more proof, maybe a couple of shattered lives of women and their children or ethnic minorities that have emigrated to other countries because of persecution isn't enough. If the truth is to be told, many of EU's countries have problems, and Poland is not entering the European Union to have their problems sorted out by someone else, the European Union is not a welfare organization, though some Poles may think it is. But if EU keeps a clear line on how they stand on human rights and advise Poland that no belief in Gods or money will give them a positive development, only a belief in humanity will, then the Polish society could in time get better at upholding human rights. When Poland enters the European Union they should; not look back in anger, or forward with fear, but around with awareness.

What I argue is not an abolition of religion. I argue that religion should be a free choice in any country which claims to uphold human rights.

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