

Capítulo 2:

Internal fractures of the ecclesiastic field in Seventeenth century Buenos Aires

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Understanding the role of the Roman Catholic Church in the development of the civil society in Buenos Aires is probably the most crucial aspect in the city's history, for it was responsible for establishing and consolidating one of the most important and significant political segments in forging the colonial "historical bloc".¹ On the one hand, there are those liberal historians who --influenced by regalist theories based on Solórzano, Frasso, Alvarez de Abreu, Cirer y Zerda, Rivadeneyra, and Campomanes²-- believed that royal patronage was laical in origin and, therefore, inherent in temporal sovereignty.³ This school of thought regarded the "free trade" role played by the secular clergy -- essentially Bishop Vitoria in Tucuman, Bishop Trejo in Córdoba, and Bishop Carranza in Buenos Aires-- as a progressive one, and the protectionist role played the regular clergy as a regressive one.⁴ On the other hand, there are those Catholic historians who --based on Domingo de Soto, Melchor Cano, Francisco de Vitoria and Antonio de Lalelie de Fermo⁵-- contended that patronage was originally not laical but spiritual, and was founded solely on a pontifical gracia (concession) that was rescindable but nontransferable.⁶ This school of thought, influenced by by a nationalist paradigm, regarded the protectionist role played by the regular clergy as a progressive one that helped to consolidate a rather weak internal market, and the free trade role played by the secular clergy as a regressive role.⁷

Later on, a Marxist approach to religion has been through a strong attack on church-state unity. This debate, however, justified in antagonizing reactionary ideological policies, nevertheless had a negative effect upon a correct appraisal of the role of the church within social formations --placing church-state relations themselves beyond the interest of scientific research. Some Marxist historians, however, argued that despite royal patronage the Catholic Church held in the colonial period a relative autonomy from the state.⁸ In so doing, the advocates of this school of thought considered that both secular and regular clergy together were also responsible for having destroyed the Indian culture and for perpetuating colonialism.

None of this paradigms, however, traced the contradictory nature of the Spanish-American colonial Church in its relative autonomy from Spanish royal patronage.⁹ The colonial Catholic Church was neither an object of a feudal state, as postulated by the liberal school (Instrumentalist school), nor was it a subject (or structure) that fully controlled itself as propounded by the Catholic school. In order to clear up the meaning with which these paradigms assessed the nature of the ecclesiastical bureaucracy, this essay will analyze the sources of conflict between church and state and within the colonial Church, and the different bureaucratic mechanisms by which the Church manipulated the state and controlled the social structure.

Unlike core colonies of the Spanish empire such as Mexico or Peru, where the main conflicts within the Catholic Church arose between archbishops and ecclesiastic councils or synods, in peripheral colonies, like Buenos Aires, the most crucial external conflict arose among the archbishop of Charcas, the Provinciales of religious orders, the Commisary of the Holy Office, and the Rio de la Plata bishop. Internally, the most decisive conflict occurred among bishops, deans, and archdeacons of ecclesiastical chapters, priors of religious orders, and subordinate officials of the Holy Office or the Holy Crusade, therefore affecting the necessary balance of power among them. Balance of power

meant distribution of ecclesiastical power in the church in such a way that no single power, neither the bishop, nor the Cabildo Eclesiástico (Cathedral Chapters), nor the religious orders, nor the Commissary or the Treasurer of the Holy Office or the Holy Crusade was allowed to become so strong as to dominate other powers within the Church and thereby change the existing balance.

Church colonial administration became not so much a matter of vertical command from the king, the pope, or the archbishop, but as a system of checks and balances of self-governing bureaucratic institutions. The longer the ecclesiastic official remained in office, the more obvious became the contradictory trends of the Church's multiple concept of authority and control. Whenever the balance of power was changed, however, a struggle broke out. This struggle was stimulated by the contradictory nature of the colonial Church, for it comprised an antagonistic subordination to metropolitan authorities (pope, king, and archbishop), an incoherent division of the ecclesiastical power (executive, legislative, and judicial), an inconsistent relationship with the colonial state, an ambivalent circulation of an ecclesiastical bureaucracy (the forced alternation of the most important offices in a province between Creole and Spanish friars), and a contradictory distribution of protocol or ceremonial rights.¹⁰

In spite of regalist policies, the diocesan church retained control over a number of important functions that belonged to the "civil society": population records, calendar activities, capellanias (chaplains), justice, charity, and, last but not the least, the sanctioning of changes in civil status (marriage), which became the source of many conflicts.¹¹ Education was formally delegated by the bishop early in the 1620s to the Jesuit College.¹² Furthermore, some ecclesiastics behaved as traditional intellectuals, organically linked to internal market-oriented interests of an encomienda background, which expressed a feudal ideology and hindered the rise of an external market-oriented bourgeoisie. Despite the assertion of Ingenieros and Rojas, however, the Catholic Church in Buenos Aires could hardly monopolize ideology or control the importation and circulation of books,¹³ due to the widespread smuggling that was at the heart of Buenos Aires economy.¹⁴

Moreover, despite regalist policies expressed through crown legislation concerning patronage, the Church never lost its institutional autonomy. The rules for the Rio de la Plata Church were supplied mostly by canon law and the Council of Trent. The Church in the Peruvian viceroyalty to which the Rio de la Plata diocese belonged, however, also enacted its own legislation. The first Council of Lima held in 1552 contained forty constituciones dealing with Indians. Concern with the life of the Indians continued in both the second and third Councils of Lima held in 1567 and 1583 --the first one summoned by Archbishop Loaiza and the second and third ones summoned by Saint Toribio de Mogrovejo.¹⁵ This conciliar legislation, however, did not preclude the making of diocesan rules. The Rio de la Plata diocese enacted also its own legislation. The synod of 1603 reflected in its character an almost exact copy of the first synod held in Tucuman in 1597, consisting mainly of the enactments of the Third Council of Lima.¹⁶ Thus, the reason why the institutional autonomy of the Catholic Church in Latin America was extremely relative was due to its power to enact its own legislation.

Unlike the viceregal headquarters where the church kept a rather strong independence from the civilian authorities, in peripheral regions, such as the Tucuman province where the state bureaucracy and the civil society was weaker, whenever the church summoned ecclesiastical councils or governors (representing the political society) were usually invited to participate.¹⁷ In the governor's presence at ecclesiastical synods, one can find the reason why Ordenanzas and synods resembled each other. The Rio de la Plata synod of 1603 was to the Ramírez de Velasco's Ordenanzas what the Third Council of Lima had been to Viceroy Toledo's Ordenanzas. The complementariness of both the secular and ecclesiastical legislation was almost complete. The synod of 1603 contained three parts: the first part dealt with the indoctrination of Indians, the second part dealt with the administration of sacraments, and the third part dealt with fasts and feasts. The synod was deeply concerned with the affairs of the Indians and the sacrament of marriage. It specified the need to teach the doctrine in the Guarani language, the

obligation of the encomendero to pay the priest one peso for each Indian indoctrinated, and of a non-encomendero resident to pay half a peso.¹⁸ Later on, in 1629, a new synod was held at Charcas summoned by Archbishop Fernando Arias de Ugarte. This particular synod resulted in five books distributed in 140 decrees. The first book dealt with the indoctrination of Indians; the second book dealt with rituals such as fasts and feasts; the third and fourth books dealt with the ecclesiastical bureaucracy such as parsons, brotherhoods, ecclesiastical chapters, regular priests, seminars, visitors, and examiners; and the fifth book dealt with crimes such as idolatry, sorcery, blasphemy, and usury.¹⁹

Due to the so-called Patronato Real, civil officials also retained, however, control of a number of crucial religious functions that also became the source of numerous conflicts. For instance, the political society (governors and Cabildos) was responsible for erecting churches, chapels, and hospitals, authorizing the establishment of religious orders, and the holding of provincial councils, expelling scandalous priests, collecting tithes, disposing of the bishop's spoils, and selecting particular saints as religious patrons (intermediary between the people and God).²⁰ Likewise, lay residents also retained control of ecclesiastical offices, such as the notary of the Santo Oficio (Inquisition) or the officials of the Santa Cruzada. The main officials of the Tribunal de la Santa Cruzada consisted of the subdelegate, the senior oidor of the Audiencia of Charcas, and a civil fiscal or assessor, who was also the treasurer,²¹ who retained monopolistic control of the sale of bulas de composición (bulls of composition).²²

Those civilian settlers who purchased ecclesiastical offices paved the way for ecclesiastical privileges. This process of secularization of the Buenos Aires ecclesiastical offices also led to an increasing use of ecclesiastical fueros (legal immunities). The right of fuero was a privilege consisting of an immunity from the power and jurisdiction of the secular fuero.²³ As early as 1627, Juan de Vergara, a notary of the Santo Oficio and treasurer of the Santa Cruzada, when arrested by Governor Céspedes, sought shelter in ecclesiastical privileges.²⁴ Later on, in 1649, Governor Lariz enacted an edict ordering that since then "priests should not be admitted in the Fuero Real (secular jurisdiction), neither by judges nor by Cabildos; having, in case they had to intervene in trials, to issue powers of attorney to laymen subject to the fuero real, otherwise the governor would declare them null."²⁵

The rules for the colonial Spanish American government were supplied mostly by royal legislation (the Partidas, Leyes de Toro, Fuero Real, and Fuero Juzgo), cédulas reales, pragmáticas, provisiones, and asientos (contracts). The government in the Peruvian viceroyalty, however, to which the Rio de la Plata belonged, enacted its own legislation. The Ordenanzas of Viceroy Toledo of 1574 were the first exponents of a Spanish American legislation.²⁶ By the same token, the government in the Rio de la Plata jurisdiction, to which Buenos Aires belonged, also enacted its own laws borrowing from Toledo's Ordenanzas. The Ordenanzas of Ramírez de Velazco in 1597, of Hernandarias in 1603, and of Alfaro in 1612, were the first samples of a Rio de la Plata legislation.

The Ordenanzas of Governors Ramírez de Velazco and Hernandarias prescribed the duties of the encomenderos to build churches in each Indian town; to buy sacred vestments, wax, and wine, and to say mass; to place a high cross at the entrance of each Indian town; to have particular care that their Indians have confession at least once a year, to go to mass at least every fifteen days, and to offer prayers every night; to give their Indians indoctrination to pay the priest the stipend stipulated by the bishop; and not to make their Indians work on Saturdays, Sundays, or during any religious feast.²⁷ Moreover, these Ordenanzas were to the ecclesiastical synods what Viceroy Toledo's Ordenanzas had been to the Councils of Lima. The mutual reinforcement and overlapping of both the secular and ecclesiastical legislation was astonishing.

Despite legislative complementariness and the Patronato Real, however, bishops and governors did not behave in a united way. The original laws regarding the banishment of ecclesiastics from the Indies were first promulgated ostensibly for the purpose of protecting the settlers and Indians from

abuses carried on by priests.²⁸ Already in 1589, the Cabildo of Buenos Aires expelled Francisco Romano, a Franciscan priest, on the grounds that he set a bad example.²⁹ This retaliatory measure, however, soon became one of the most important tools for the "political society" (Cabildos and governors) for controlling the excesses committed by some members of the *estamental* society (bishops) and the embryonic "civil society" (mayordomos de capellanías y cofradías). For instance, in 1590, the Cabildo expelled Bishop Alonso Guerra based on his overexcessive demands with respect to the tithe collection.³⁰

While priests, in coalition with Corregidores, could cheat the Indians through the extraction of all sorts of fraudulent ecclesiastical tithes, they could not do the same with a white and mestizo population. Pervaded also by what some nationalist historians attributed to Jewish influence, Buenos Aires settlers, including the internal market-oriented producers, resisted a diocesan plan to tax production and property. Already in 1586, residents and royal officers opposed Bishop Alonso Guerra in trying to impose the tithe.³¹ Similarly, in 1617, the Cabildo opposed the vicar priest Francisco Caballero Bazán, originally from Paraguay, in trying to impose an annual tax called doctrina (doctrine), which consisted of four reales for each slave owned.³² Likewise, the Cabildo opposed the Church's charging the poor people excessive alms for burials during the epidemics that struck Buenos Aires in 1621.³³ Sixteen years later, in 1637, the whole Cabildo opposed the new bishop, Cristóbal de Aresti of Paraguay, for trying to enact an ecclesiastical tribute called primicias (first fruits) that would have taxed cows, mares, chickens, suckling pigs, and seeds.³⁴

The political, *estamental* (rank-oriented) and civil societies also struggled about issues of ceremony and protocol. Governors struggled to preserve the rights accorded them by the Patronato Real and to be acknowledged by the appointment of priests.³⁵ In 1635, a conflict arose over the screen's location within the cathedral. When the cathedral was officially founded in 1620, during the time when the first Bishop Fray Pedro de Carranza was selected, the grate formed something of a chapel close to the high altar. Between the grate and the altar formerly sat the governor, representing the king and using the prerogatives of the Patronato Real. Since the grate was removed and taken to the presbytery, however, the governor and the remaining public officials sat unsegregated from the rest of the people. This offended the elitist sensibilities of Governor Pedro Estéban Dávila, who responded by boycotting the mass held at the cathedral. Furthermore, the secular authorities took their respective chairs and moved to the Franciscan church.³⁶ Two years later, in 1637, the conflict that broke out because of ecclesiastical tributes resulted in the excommunication of Governor Mendo de la Cueva y Benavidez by Bishop Cristóbal de Aresti.³⁷ Governor Cueva y Benavidez threatened to resign in order to defend the prerogatives of the Patronato Real now jeopardized by an excommunication that weakened his power to enforce the administration of justice and carry out executive responsibilities. Three years later, in 1640, Bishop Aresti, now taking revenge for his previous failure, challenged Governor Cueva y Benavidez on the grounds that he was trying to draft Buenos Aires residents, against their will, in military expeditions that were mainly used for hunting wild cattle on his own behalf.³⁸

Finally, the civil society, through the mediation of ecclesiastical authorities, disagreed about economic policies performed by the political society. For example, in 1606, Cristóbal de Loyola, the Riode la Plata bishop (both for Paraguay and Buenos Aires), differed with Governor Hernandarias about the correct interpretation of a royal order that forbade trade with Brazil. Loyola believed that royal orders that did not respect the well being of the people should be obeyed but not carried out. Thus, Loyola deduced that Hernandarias was obliged to revoke the royal order. He considered the prohibition of trade tantamount to ruining the new city.³⁹ Twenty years later, in 1626, Bishop Fray Pedro de Carranza, because of the imprisonment of Juan de Vergara, the *Confederado* leader and the mayor smuggler and slave-trader, successfully challenged Governor Francisco de Céspedes.⁴⁰

The Spanish-American colonial Church disagreements also reached the area of diocesan

church/secular clergy relations.⁴¹ Despite the formal prevalence of ecclesiastical legislation, secular and ecclesiastical officials at this time were usually under the influence of a sort of Erasmian anticlericalism, at that time the organic ideology of any modern mercantile bourgeoisie. This Erasmian satire was addressed against clerical vices and abuses, and even included surreptitious attacks against many church institutions, ceremonies, and rituals, not even stopping with the dogma itself.⁴²

Another reflection of this internal struggle was the public policy followed by governors with regard to the immigration of foreign priests. When the internal market-oriented forces governed Buenos Aires, the *Benemérito* faction tried to prevent the Church from being penetrated by Spanish priests. Governor Hernandarias wrote the king in 1617 asking him to save the expenses of sending Spanish priests, whom he did not esteem, and tried to impose native priests, who were more or less "traditional intellectuals", whom he brought from Asunción del Paraguay.⁴³

The main sources of conflict between the bishop and the cathedral chapter lay in the power to appoint prebendaries and to distribute the church revenue.⁴⁴ Those two main sources of controversy, as J. Schwaller has detailed for the case of Mexico, had strong "implications for the balance of power between the bishop and the cathedral chapter."⁴⁵ Already in 1621, while Bishop Carranza was absent, Dean Zaldívar who represented the cathedral chapter, took possession of his prebend before Carranza could have decided upon the issue. Zaldívar's attitude created a bad image in Carranza's mind. By acting ahead of Carranza's decision, Zaldívar undermined the bishop's power to appoint prebendaries.⁴⁶ Regarding the distribution of the Church's main revenue (tithes), according to the Real Cédula of February 1541, these should be divided into four equal parts --one portion for the bishop, another for the cathedral chapter, and the other two parts were to be further separated into ninths (novenos), of which two were to be reserved for the crown, three for the construction of churches and hospitals, two for salaries of curates, and the remaining two portions were to be set aside to pay the dignitaries and subalterns of the diocese.⁴⁷ The Bull of Erection promulgated by Bishop Carranza, however, established the distribution of the tithe into three parts --one part going to the bishop, another to the chapter, and the last third part to the crown.⁴⁸ Considering that the Buenos Aires cathedral chapter was composed of four prebendaries, it can be concluded that each one of its members received a twelfth part of the total tithe. In other words, Carranza's Bull of Erection meant that the bishop earned four times what each of the other members of the cathedral chapter received. Not surprisingly, this unequal distribution of ecclesiastical revenue, despite the intentions of the Real Cédula of 1541, became a serious source of conflict. This was obviously due to the corruption of the bishop in his defiance of the established code for the proper divisions of ecclesiastical revenue. Because of this willful violation of the Real Cédula, the bishop received \$1,838 out of a total collection of \$6,000, instead of \$1,500, the quarter portion as provided by the Real Cédula.⁴⁹

Conflict also affected the relations between the regular and secular clergy. The main source of conflict between them lay in the control of ecclesiastical jurisdictions and the administration of sacraments. Despite the fact that the last two councils held in Lima in 1583 and 1591 reinforced the power of the bishops, Pope Gregory XIV acknowledged the regular clergy's jurisdictional autonomy by means of the Bull *Quantum Animarum Cura*, enacted in 1591.⁵⁰ In the Rio de la Plata area, however, due to the scarcity of the Indian population and, consequently, the lack of economic inducement, the secular clergy, which mainly controlled the Spanish settlements, continued exerting a sort of jurisdictional hegemony. Notwithstanding the scarcity of priests in the Rio de la Plata area, Bishop Carranza raised obstacles to the administration of sacraments by the Franciscans. Specifically, the synod of 1629 decreed that regular priests could not administer baptism.⁵¹ This decree benefited the Jesuits, who after that year extended their area of influence in a drastic way. In this particular struggle, the regular clergy, due to its role as "traditional intellectuals", found support in the encomendero estate and its *Benemérito* faction. The latter desperately needed to counterbalance the power of the bishop, the main "organic intellectual", as well as his hunger for tithes by means of the

protective shield of the religious orders.⁵²

For similar reasons, the main struggle among religious orders occurred between Dominicans and Franciscans. On the one hand, the Dominicans, a religious order that did not hold any mission among the Indians, favored the Cabildo, or, in other words, the external market-oriented interests. On the other hand, the Franciscans, a religious order entirely engaged in Indian missions, favored the internal market-oriented producers centered around the few extant encomenderos. The Franciscans in Buenos Aires supported Governor Céspedes and the *Benemérito* faction. In contrast, the Dominicans and Mercedarians, together with Bishop Fray Pedro de Carranza, a cousin of Juan de Vergara, supported the *Confederado* faction. Curiously, the Jesuits remained apparently neutral.⁵³

Conflict also affected the internal life of religious orders expressed in their yearly capítulos (meetings). Within the Franciscan order, those priests who disagreed with the Provincial, Juan de Vergara, because of his alliance with Governor Céspedes were assigned to other locations in the meeting celebrated in 1628. In the following meetings celebrated in 1629 and 1630, however, new Franciscan authorities arrived from Spain and radically changed their policies with regard to Governor Céspedes.⁵⁴

Finally, conflict also affected the relations between the Ecclesiastical Chapter and the Commisary of the Holy Office of the Inquisition. The Holy Office together with customs officials and port governors was supposed to send their officials (commisary and notary) to inspect incoming vessels. Should they discover non-Catholic passengers (be they Jews, Moors, Protestants, or Turks), they were to return foreigners to Spain for trial. The Commisary was asked to request a series of questions concerning forbidden books. If any violation of legal rules was found, the Commisary was to imprison the illegal passengers and to sequester his books. In performing this job, the Commisary became one of the most powerful officials within the Church bureaucracy. When Bishop Carranza died in 1632, a struggle broke out between Martín Martínez de Eulate, the Commisary of the Holy Office, who was supported by Governor Pedro E. Dávila, and the Ecclesiastical Chapter. Despite Martínez de Eulate's opposition, the Ecclesiastical Chapter finally succeeded in installing R. P. Gabriel de Peralta, a creole, as the provisional bishop.⁵⁵

The notion of public order in the colonial times had three enemies that the colonial state could not tolerate: heresy, idolatry, and sin. All of them went directly against the Christian order, which meant going also against the social order.⁵⁶ Unlike the Mexican and Peruvian vicerealties, however, there were no cases of heresy or idolatry in the Rio de la Plata governorship.⁵⁷ Notwithstanding, there were cases where the distribution and ownership of the writings of some European scholars were considered heretical and, consequently, criminal.

As a result of Erasmus' ideological challenge and popular success, even in Spanish literary circles, Erasmian propositions were identified with heresy and ended up, in 1559, being banned by Pope Paul IV and, in 1612, by the Spanish Index. Despite its prohibition, however, many Spanish scholars, such as Luis de Granada and Venegas del Busto, succeeded in spreading Erasmian ideas. Both Bishop Pedro de Carranza, a Carmelite influenced by the Reforma Teresiana (a religious movement led by Santa Teresa de Jesús and San Juan de la Cruz), and councilmen Juan de Vergara, two of the most influential individuals in the Rio de la Plata political entourage (who as a matter of fact were cousins), had among their books the complete works of Fray Luis de Granada, including his famous *Guía de Pecadores* (which according to Marcel Bataillon had a clear resemblance to Erasmus' *Enchiridion*), and which before being expurgated in 1561 had been included in the Index.⁵⁸ In addition, Juan de Tapia de Vargas, a merchant, landowner, and politician, was one of the few who took sides in favor of Governor Céspedes in 1629, as well as the only one who tried in seventeenth-century Buenos Aires to encourage local manufacture. He also had in his private library Venegas del Busto's

Agonía del tránsito a la muerte, which in keeping with Bataillon, borrowed entire chapters from Erasmus' Preparation for Death.⁵⁹ On the one hand, Bishop Carranza was entirely committed during the 1620s to the external market-oriented interests of the *Confederado* faction with which his bureaucratic and personal interests were closely linked, in other words playing the role of an "organic intellectual" or ideological broker. On the other hand, the Cabildo Eclesiástico (Ecclesiastical Chapter), which governed the main church of the new Buenos Aires diocese, and most specifically its Asunción-born deacon, Francisco de Zaldívar, was almost totally submerged in the internal market-oriented interests of the *Benemérito* faction, playing the role of a "traditional intellectual".⁶⁰

In a like manner, sinful behaviors were also punished by the colonial state. Anytime parents used sinful threats, like damnations and blasphemies, to attempt to oppose a marriage, ecclesiastical courts ran over them. When in 1633, Pedro de Sayas, an encomendero, opposed the marriage of her daughter Juana de Sayas y Medrano by threatening her to damn her, the Buenos Aires ecclesiastical court considered it an unacceptable means to attempt a marriage.⁶¹ Moreover, the colonial state legitimized restitutions whenever the colonists acknowledged having committed sins.

Unlike Peru or Upper Peru, records revealing guiltiness about sins perpetrated against the Indians are very scarce in Buenos Aires. In fact, in only one will, albeit a pathetic one, was there a trace of such guilt. The frenetic religious confession of an old creole woman, Ana Bautista, herself the daughter of the encomendero Juan Bautista Noble, was declared in a testamentary clause. This clause expressed her conviction about the illegitimacy of her wealth. Doña Ana was mentally tortured by the sins committed by her father in the conquest of Tucuman and Córdoba, as well as by the excesses that she herself had tolerated on her own encomienda. As a result, Doña Ana confessed her sins in 1635 to Father Ortensio, who advised her to retribute the appropriate amount of money according to the excesses committed. Doña Ana appraised the excesses at \$800, and, in 1635, ordered them in her notarial will to be given to Captain Marcos de Sequera, husband of her granddaughter Ana de Matos, in order that the money be distributed among her Indians.⁶² Besides restitution, guilty feelings revealing sins were also expressed through donations, bequeaths, free manumissions, and tribute exemptions.

Similarly, despite regalist policies enacted by the Spanish crown, the canonical discipline was manipulated by some ecclesiastical institutions within the *estamental* (rank-oriented) and embryonic civil society (e.g.: ecclesiastical courts) to counterbalance the power of the political society. Among them, the most central categories to the Church's concern for discipline and obedience, the main sources of conflict, and the main bureaucratic devices of the *estamental* (rank-oriented) society to interfere with the political society were the mechanisms of excommunication and absolution.⁶³ In three different opportunities in a decade, Buenos Aires experienced a public exchange of punitive measures among public officials. Bishop Carranza excommunicated Governor F. Céspedes in 1627, and Bishop Aresti excommunicated both Governors Dávila and Cueva y Benavídez in 1637 and 1640.⁶⁴

These excommunicated civil authorities had one thing in common: they had disobeyed the bishop and as a result were considered contumacious. Their expulsion resulted not from financial refusals (payment of tithes) or from violent attitudes against clerics or from heretic complicities, but rather from placing themselves in obstinate disobedience to the Church in her courts. As a direct result of the excommunication writ, governors, such as Céspedes, Dávila, and Cueva y Benavídez, found themselves prevented from administering justice, having discipline within the army, keeping delinquents in jail, and from presiding over the yearly Cabildo assembly where new authorities were elected (usually held every January 1st).⁶⁵

By exceptional privilege, the power to excommunicate was enjoyed by some prelates below the rank of bishop, such as the dean and the vicar. As a matter of fact, in 1635, Governor Dávila complained that the vicar general, Lucas de Sosa, imposed under punishment of excommunication that

"during feasts notaries should not write, barbers should not shave, oxen-carts should not enter nor quit the city, and that negresses and Indians should not wash clothes."⁶⁶ The power to excommunicate, however, whether exercised by bishops or by lesser prelates, could not be used indiscriminately. Since a bishop in excommunicating was acting by ordinary authority, his power to excommunicate was restricted exclusively to persons belonging to his jurisdiction.

Whenever bishops abused their right to excommunicate, governors requested from the Real Audiencia a real provision de fuerza, a shortcut method of extending royal protection to subjects living in areas remote from the audiencias, in order to force on the bishop the corresponding absolution, meaning simply the lifting of the sentence. If the Audiencia decided that the excommunicated governor had not exceeded his authority then the bishop was obliged to absolve him.⁶⁷ It was this absolution that effected the reconciliation of the excommunicate to the Church. Already in 1586, Governor Torres de Navarrete obtained from the Real Audiencia a royal provision to secure absolution from Bishop's Guerra excommunication.⁶⁸ Likewise, in 1639, Governor Mendo de la Cueva y Benavédez requested from the Real Audiencia a royal provision demanding an absolution from the bishop.⁶⁹ In this manner, the ecclesiastical jurisdiction finally remained subjected to the secular power.

Second, after the Church's concern for discipline and obedience, central to the Church's care for individual morality, came the administration of sacraments. Among them, the sacraments of confession, baptism, and marriage were crucial. As for the conduct of the individual's private life, the greatest influence of pastoral care was exerted, according to Max Weber, when the priesthood, empowered to distribute "divine" grace, "...combined ethical casuistry with rationalized system of ecclesiastical penances".⁷⁰ Among those penances administered by the clergy in the aftermath of conquest and colonization restitution (a kind of indemnization or expiation) occupied a central place.⁷¹ Considering the small amount of tributary Indians existent in the Buenos Aires area (roughly around six-hundred Indians), however, the penance of restitution was here very rarely administered.⁷²

After sacramental confession, central to the Church's regard for ethics and one of the main sources of political, social, and moral conflicts were the institutions of baptism and marriage. As Spaniards refused to have sexual relations with Indians that had not been baptized, baptism became an essential requisite for attaining equality and for incorporating the Indians into the Spanish colonization.⁷³ So widespread was this requisite that religious orders struggled with each other essentially for the right to exercise this sacrament as well as for the right to charge the correspondent fees. During the late 1620s, the diocesan Church of Buenos Aires raised obstacles to the administration of baptism by the Franciscans. At the synod of Charcas, in 1629, the bishops decreed that regular priests could not administer baptism.⁷⁴ In so doing, the secular Church retained control over the activities of the religious orders.

The sacrament of marriage also became a main source of conflict, regarding whether the married couple was Indian or Spanish.⁷⁵ Although the population that was financially able to oppose marriages in ecclesiastical courts was to a large extent from the colonial elite, the actions of the church courts came to encourage social mobility, removing a traditional *estamental* social stratification. Prevention of the formation of such social or ethnic constraints helped the Buenos Aires elite from becoming a rigid oligarchy. Virtually all the objections based on social distance were raised by white relatives who opposed the marriage of their children to a Creole, a Portuguese, a mulatto, or an Indian. Only five cases out of 120 cases summarized by Raúl A. Molina detail the ethnic origin of brides and grooms. Three cases were concerned with white males marrying Indian women, one case was linked to a Creole woman forced to marry a Portuguese, and another case was related to a white male marrying a mulatto.⁷⁶ In this regard, the decisions of Buenos Aires ecclesiastical courts, unlike the late eighteenth-century secular courts, suggest (despite the lack of statistics) a higher contribution to interracial marriage and miscegenation. By the same token, the overwhelming presence of commercial capital

might have also strongly contributed to accelerate interracial marriage. As a matter of fact, already in 1606, when Governor Hernandarias tried to banish Portuguese merchants, Bishop Loyola instrumented the sacrament of marriage, joining Portuguese grooms with Creole brides in order to avoid their expulsion. This manipulation of the institution of marriage by an ecclesiastical "marriage broker" generated a deep conflict between the Church and Governor Hernandarias that was very soon overcome.⁷⁷

Objections to marriage occurred also among Indians, blacks, artisans, and members of the castas.⁷⁸ Rural priests, for example, were to take care that Indians married within their *encomiendas*. Local Indians from Baradero, Bagual, or Tubichaminí *encomiendas*, however, married to tributary Indians from the interior provinces, despite municipal regulations to the contrary, such as the one issued in 1610.⁷⁹ Artisan *Cofradías* also were to take care that daughters of master artisans married within their crafts. The higher the *casta* of an artisan, however, the more open were the recruitment policies within a particular craft, and discrimination attitudes against outsiders were not practiced. For instance, according to Juan Jurado's will issued in 1638, one of his daughters married Mateo Arnal, a shoemaker, another married Manuel Fonseca, a locksmith, and the elder one married Manuel González, a blacksmith.⁸⁰ Instead, among members of lower castas, it was to the advantage of a craft, diminishing the risk of intercraft frictions, if the new journeyman was known to the old masters. That is why among Indians living in Buenos Aires, artisans attempted to retain the sons-in-law by encouraging them to continue their workshops. For example, according to the will of the Indian tailor Miguel, issued in 1636, his daughter married Domingo Negreros, also a tailor.⁸¹

Since, according to Spanish regulations, the surviving parent was obliged to pass on at the time of the marriage of his children any inheritance from the deceased parent, the surviving parents who desired to maintain supervision of the inheritance resisted the marriage of their children in order to impede their corresponding material loss. In order to resist the marriage of their children, parents resorted to the use of physical violence, reluctance to hand over an inheritance, or objections to economic or ethnic differences between the couple. When one unacceptable objection to marriage took place, the ecclesiastical court judge either ordered the *depósito* (trust) or granted a dispensation of banns. The purpose of the placing of a woman, like Catalina de Enciso, María Barbosa, Ana Hernández y Rojas, or Juana de Sayas y Medrano, in *depósito* was to safeguard their right to choose to marry or remain single, free from all parental coercions. In order for the *depósitos* to take place, Catalina de Enciso, for example, had to be physically removed from the hands of her father, Pedro Rodríguez de Cabrera, so that she might be placed with a neutral party, the home of Tomás Rosende. The willingness of ecclesiastical officials to withdraw a girl from her parents' home in order to place her in *depósito* signaled, according to Patricia Seed, a relative concern for the free will of the woman to marry.⁸²

The main condition under which the dispensation of banns was granted by an ecclesiastical court occurred once the girl affirmed both her willingness to withdraw from the parental home and to marry the man with whom she had eloped. This strategy was clearly the flat-test reply to any attempt at preventing a marriage, for it had the effect of immediately marrying the couple.⁸³ As a consequence, elopement were actually protected in some cases by Buenos Aires ecclesiastical authorities. By law, the banns were three in number, each one dispensed during religious festivities at the time of the *misa mayor* (high mass), over an interval of three weeks. Once the third bann had been dispensed, the betrothal or marriage was considered to be an accomplished fact. It sometimes happened, however, that the groom or the bride reneged on their promise before the third bann had been actually dispensed. For example, in 1618, Luis and Alfonso Carballo, both barbers originally from Lisbon, arrived in Buenos Aires, where they promised to marry, respectively, María Hernández, a daughter of Andrés Lozano de Saravia, an old settler of Buenos Aires city, and Dominga Barbosa, a widow of Mendo Alvarez, a Portuguese merchant.⁸⁴ Both Carballos, in spite of having obtained the dispensation of the second bann, decided to ask the ecclesiastical court to cancel the dispensation of the third bann. Alfonso Carballo

argued in July of 1619 that he was leaving immediately for Brazil, and Luis Carballo claimed, nine months later, that he was angry and disillusioned, that "there was no more room for more bargaining," and that he wanted to withdraw his previous request.⁸⁵ Marriage negotiations, at that time, resembled in some cases financial bargainings where sentiments and physical beauty played no role whatsoever and where a go-between was badly needed to make the proper bargain. While both Carballos had nothing to lose, however, that was not the case for their ex-brides. For, according to Ramón Gutiérrez, "...to have it known that a daughter had been seduced or had lost her virginity was to significantly alter her symbolic value in economic transactions".⁸⁶ Nevertheless, one finds that the Carballo brothers' threat was only a stratagem to raise the dowry, since later on both Carballos married their respective brides. Alfonso Carballo acted as stepfather of María Barbosa, a daughter of Domingo Barbosa, and was accused by Juan de Sequeyra of beating his stepdaughter for being pregnant.⁸⁷ In the case of Luis Carballo, he was later widowed by María Hernández and remarried Gerónima Santana.⁸⁸ Once widowed by Gerónima Santana, Luis Carballo moved to neighboring Santa Fé where he still had the energy to marry two more times, the fourth and last time to María Rodríguez, daughter of Captain Cristóbal de Basualdo and María de Centurión.⁸⁹

Apart from being a source of social conflict, the institution of marriage was also a source of moral conflict. Bishop Fray Pedro de Carranza, the main "organic intellectual" within Buenos Aires "civil society" responsible for running the ecclesiastical court, knew perfectly well the prescriptions of the canon law regarding morality in marriage, as well as the literature that supported it. He mentioned, among the books he donated to the priory of the Carmelite order, *De Sacramento Matrimoni* (1602), by the Jesuit Tomás Sánchez.⁹⁰ Sánchez's book, strongly borrowing from Vives's *Institutiones foeminae christiane* (*Institution of the Christian Woman*, 1538), praised the moral value of the Christian marriage against the concupiscence suggested by roguish novels like *La Celestina*. Vives's point of view placed a high value on conjugal life. This emphasis on conjugal life was due to the influence of Erasmus' ideas about "free will" in marriage selection of husband and wife.⁹¹ Erasmus' doctrine was a reaction against the predestination theory and state responsibility in marriage selections elaborated by Martin Luther and John Calvin.⁹²

In the books of Sánchez and Vives, objections to marriage, called impediments, were extensively detailed. According to their works, canonical impediments consisted of general and specific inadequacies to marry. Among the former were age, impotence, priesthood, having another living spouse, and being non-Catholic. Among the latter were consanguinity, affinity, *compadrazgo* (spiritual kinship), crime, and sexual dishonesty.⁹³ Since extreme coincidence and the exact exceptions specified by canon law were necessary to oppose a marriage, the number of opportunities for relatives to make use of these objections was remarkably restricted.⁹⁴ Out of 1230 cases raised in the Buenos Aires ecclesiastical court between 1611 and 1633 and summarized by Raúl A. Molina, only four cases were encountered in which the dissolving objections to attempt to prevent a marriage were employed. One case was concerned with impotence, another two were related to age, and, in another case, the promise to enter priesthood was the excuse for the complaint.⁹⁵

A way to marry over the opposition of relatives or parents was by appeal to an ecclesiastical court. Throughout the course of the seventeenth century, one can summarize three main different motives considered as unacceptable reasons for attempting to impede a marriage: 1) parental use of physical violence (beatings); 2) parental reluctance to hand over an inheritance; or 3) parental objections to economic or ethnic differences between the couple. In only three cases was the use of violence or physical threat registered in Buenos Aires. When Isabel de Encinas planned to marry Juan Bernal in 1616, a close relative opposed the arrangement and threatened to commit a "diabolic act" if such a marriage was concluded.⁹⁶ Similarly, in 1629, when Pedro Toscano dared to marry María Barbosa, Juan de Sequeyra accused María's stepfather, Alfonso Carballo, of having mistreated his daughter for being pregnant and of beating her with a stick.⁹⁷ In the case of Juana de Sayas y Medrano,

who married Alonso Ramírez, a widower of Luisa Villegas, as her father Pedro de Sayas could not impose his will, he indirectly punished her by giving his other daughter the advantage of one third and the remnant of one fifth of his inheritance.⁹⁸ These few cases notwithstanding, the different social characters of the victimizers, one being a merchant (Aalfonso Carballo), who might have had a more modern attitude towards sex and marriage, and the other an encomendero (Pedro de Sayas), more feudally oriented, both reacted in almost the same way. To strike a final balance sheet for the role performed by the Church with respect to the sacrament of marriage is not an easy task. The performance seems contradictory. While on one side Indians prevented from mixing with blacks or with Indians from other encomiendas, Creoles and Spaniards were encouraged to break *estamental* social stratifications and patriarchal family rules.

In summary, this essay has extensively detailed the different mechanisms by which the Buenos Aires ecclesiastical bureaucracy became relatively independent from royal patronage. In doing so, this essay has verified how disagreements between the diocesan church (bishop) and the colonial state (governors), the secular clergy (cathedral chapter) and the bishop, the regular and secular clergy, and among religious orders themselves, were influenced by the contradictory nature of the colonial Church. By the same token, verification has been given of how the implementation of the mechanisms of excommunication, penance, and marriage also very often became sources of political conflict as well as cases of intrusion of the "civil society" within the "political society".

Footnotes

¹ The categories of civil society, historical bloc and traditional and organic intellectuals are used in a Gramscian sense, see Macciocchi, 1980.

² About Solórzano y Pereyra, see Ayala y Delgado, 1947; about Antonio Alvarez de Abreu, see Hera, 1963, 65-68, 93-95; about Miguel Cirer y Zerda, see Legón, 1920, 161-62; about Antonio Joaquín de Rivadeneyra, see Mecham, 1934, 3; and about Pedro Rodríguez de Campomanes, see Hera, 1963, 75-77, 90, 98-101.

³ Gorriti, 1836. About Gorriti, see Rojas, 1925, I, 82ff.; and Góngora, 1957, 131-146; Alberdi, 1895, 14, 279-80; López, 1883-83; Lucio V. López, 1891, 80-83; González, 1897, 155-56; Quesada, 1910; García, 1896; Bunge, 1913, 2, 277-78, and 289; and Vélez Sársfield, 1919, 90-91.

⁴ García, 1900; Ingenieros, 1918, 54; Cárcano, 1929.

⁵ About Domingo de Soto, Melchor Cano, and Francisco de Vitoria, see Maravall, 1955, 119-27; about Laelio de Fermo, see Ayala y Delgado, 579-81, 588-606; and Leturia, 1948.

⁶ Estrada, 1871, 193-260; Ayarragaray, 1920; Carbia, 1914; and Legón, 1920.

⁷ Palacio, 1957, 76-78; Molina, 1948; Sierra, 1956-72; and Furlong, 1944.

⁸ Justo, 1945, 145-227; and Bagú, 1949, 80 and 89.

⁹ About the Patronato Real, see Shiels, 1961; as well as Hera, 1963.

¹⁰ Tibesar, 1982, 209.

¹¹ Rodríguez Valencia, 1957; Shiels, 1961; and de la Hera, 1963.

¹² Isern, 1936, 34-39.

¹³ Medina, 1899, chapter 6; Ingenieros, 1918; Rojas, 1948, preliminary chapter, sect.4; Garretón, 1933, 271-275; and Cervera, 1939, 193.

¹⁴ Torre Revello, 1948, 107; and Cutolo, 1955, 134-136.

¹⁵ Armas Medina, 1953, chapter 9; Bruno, 1967, 180; and Rivera Pizarro, 1971, chapter 2.

¹⁶ Levillier, 1926, 1, 9-78; and Ripodas Ardanaz, 1973.

¹⁷ Mateos, 1970, 327-328.

¹⁸ Carbia, 1914, I, 56.

¹⁹ Velasco, 1964, 88-130; and García Quintanilla, 1964, 156-67.

²⁰ For instance, after a lengthy discussion on whether to choose Saint Boniface, Saint Sabino, or Saint Saturnino as patrons against ants and rats, the Cabildo finally chose to carry in procession Saint Simon and Saint Judes (Acuerdos, Municip., 1886-91, 2:420; 3:343; and 4:117 and 465). Apart from the election of a particular saint as a patron against biological threats other saints were chosen as protectors against floods, Nuestra Señora del Rosario as a patron against droughts and sinkings, and Nuestra Señora de Nieva as a heavenly protector against furious storms. See Orgaz, 1922, 76; Carbia, 1914, 81-83; and Bruno, 1967, 125-126.

²¹ Fisher, 1967, 231.

²² A bull of composition consisted of the remission of the temporal or temporary punishment still due to sin after sacramental absolution, either in this world or in purgatory. Practically, the bull of composition manifests itself as a cut in the days of punishment that should be performed in purgatory. See Martínez Reyes, 1980, 401; and Romano and Tenenti, 1971, 214. For more details and interpretations about this strange and obscure case, see Vainikoff, *Chismes, escándalos, inmoralidades y mala vida en la historia argentina*, unpublished manuscript.

²³ Escriche, 1863, 737.

²⁴ Sierra, 1956-72, 2, 157.

²⁵ Acuerdos, 10, 147-52; and Peña, 1911, 43 and 47.

²⁶ Levillier, 1935-42.

²⁷ Santillán, 1928, 3.

²⁸ About the banishment of priests by the secular power, see Farriss, 1968, 48-59.

²⁹ Carbia, 1914, I, 73; and Bruno, 1967, I, 283-84.

³⁰ Carbia, 1914, I, 45; Bruno, 1967, I, chapter 6; and Sierra, 1956, I, 420-23.

³¹ Bruno, 1967.

³² Acuerdos, Municip., 3, 346.

³³ *Ibid.*, 4, 205.

³⁴ Ibid., 5, 254-62.

³⁵ Peña, 1916, 42.

³⁶ Acuerdos, 5, 124.

³⁷ Acuerdos, 5, 283-85.

³⁸ Cervera, 1907, 362-67.

³⁹ Carbia, 1914, I, 539-42.

⁴⁰ Ibid., 1914, v.I, chapter 4.

⁴¹ Relations in the higher echelons of the diocesan church and regular clergy were also sundered with bishops pitted against cathedral chapters and the Franciscans pitted against the Dominicans.

⁴² Mariel de Ibáñez, 1946, 135; and also Ponce, 1939.

⁴³ Olaechea Labayén, 1977, 501.

⁴⁴ Once the first bishop Fray Pedro de Carranza arrived in Buenos Aires in 1620, the Bull of Erection was promulgated. This document provided for the formation of a cathedral chapter of four members called prebendados (prebendaries). In Buenos Aires, the cathedral chapter consisted of only two ranks: the dignidades (dignitaries) and the canónigos (canons). Among the former were the dean and the archdeacon.

⁴⁵ Schwaller, 1981, 655.

⁴⁶ Avella Cháfer, 1976, 321.

⁴⁷ Recopilación de Leyes de los Reinos de Indias, libro 1, título 16, ley 23.

⁴⁸ Carbia, 1914, 132.

⁴⁹ Torre Revello, El libro como factor, 31.

⁵⁰ Armas Medina, 1953, capítulo 17.

⁵¹ Velasco, 1964, 88-130.

⁵² Bruno, 1967, 2, 151-154.

⁵³ Peña, 1916, 25.

⁵⁴ Bruno, 1967, 2, 151-152 and 159-60.

⁵⁵ Ibid., 1967, 3, 28; Actis, 1943-44, I, 42-43; and Molina, 1961, 112-113.

⁵⁶ Ayala y Delgado, 1949, 426.

⁵⁷ Medina, 1887, 1899, 1905.

⁵⁸ Kamen, 1965, 94.

⁵⁹ Cutolo, 1955, 105-183; and Bataillon, 1937, v.2, chapter 11, sections 2 and 4.

⁶⁰ Torre Revello, 1944, 32-33; Peña, 42, and Carbia, 1914, v.I, chapter 3.

⁶¹ Molina, 1956, 163-179.

⁶² AGN, Escr. Ant. v.21, f.77.

⁶³ "The excommunication is incapable of making a last will, of testifying before a court, of accepting donations, of disposing his property or of acquiring new property --in short he is outlawed. He is declared infamous: he cannot occupy public offices; if he is a judge, his verdicts are null and void; he is excluded from the bar and his acts as a notary public are invalid. It goes without saying that he is excluded from sacraments, that he cannot have a christian burial and that he cannot enter a church", see Ullman, 1962, 300.

⁶⁴ Bruno, 1967, v.2, chapter 8, and vol 3., 37-40.

⁶⁵ Ibidem, 1967, 3, 39.

⁶⁶ Ibid., 1967, 3, 30.

⁶⁷ Farriss, 1968, 81; and Tibesar, 1982, 210-212.

⁶⁸ Bruno, 1967, I, 282.

⁶⁹ Ibid., I, 39.

⁷⁰ Weber, 1963, 76.

⁷¹ About the restitution, see Lohmann Villena, 1966, 21-89; and Guarda, 1973, chapter 5, section 7.

⁷² Zinny, 1920-21, 1, 109; Torre Revello, 1944, 13; Torre Revello, 1958, special volume, first part, 229-240; Marfany, 1940, 33 and 36; and Molina, 1939, 265-271.

⁷³ Gonzalbo, 1983

⁷⁴ Velasco, 1964, 88-130.

⁷⁵ Seco Caro, 1958; and Rípodas Ardanaz, 1977.

⁷⁶ Molina, 1956, cases 9, 25, 71, and 99.

⁷⁷ Carbia, 1914, I, 60.

⁷⁸ A casta was a hierarchy within a racial stratification according to the share of white blood, see Roscher, 1903, 19-20.,

⁷⁹ Acuerdos, 2, 137.

⁸⁰ AGN, v.24, f.221.

⁸¹ AGN, v.22, f.172v.

⁸² Seed, 1980, 91.

⁸³ Ibid., 97 and 98.

⁸⁴ Molina, 1956, cases n.18 and 28.

⁸⁵ Ibidem

⁸⁶ Gutiérrez, 1980.

⁸⁷ Molina, 1956.

⁸⁸ AGN, v.27, f.186.

⁸⁹ Zapata Gollán, 1969, 253.

⁹⁰ Cutolo, 144; about R.P. Tomás Sánchez S.J., see Noonan, 1972, 31-41; and Rodríguez Molas, 1984, 38-39 and 64-66.

⁹¹ Erasmus, 1518; *ibid.*, 1526.

⁹² Bennassar, 1975, 148.

⁹³ Seed, 1980, 177-178.

⁹⁴ Seed, 1980, 191.

⁹⁵ Molina, 1956, 163-179.

⁹⁶ *Ibid.*, 1956, case n.12.

⁹⁷ *Ibid.*, 1956, case n.71.

⁹⁸ *Ibid.*, 1956, case n.108; and AGN, v.21, f.399.