

The Emergence of Civil Society in Eastern
Europe: Church and State in the Czech
Republic 1992-1998

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Abstract

This thesis examines the relationship between civil society and democracy through a case study of the revival of the Catholic Church in the post-communist Czech Republic. I use an ideal typical conception of civic organisations that emphasises three characteristics: civility, independence, and autonomy. I ask how each of these characteristics is related to democracy and how the degree to which the Czech Catholic Church approximates each characteristic can be explained.

Civility - my research challenges the contemporary consensus around the work of Robert Putnam that there is an inverse relationship between civility and associational hierarchy. I show how the organisations and networks in which the Bishops were involved during Communism functioned as schools of democracy, producing the strong civil values of Czech Bishops still in evidence today. The argument indicates that Putnam and other social capital theorists should move beyond the formal level of associations in their search for the causes of civic virtue.

Independence - The failure of the church to reconstitute its property and its continued dependence on the Czech state is conventionally explained by reference to either an historic anti-Catholicism or the contemporary exigencies of justice. I reject these arguments, and show how Church restitution is artificially created as an issue by politicians seeking to build distinct party identities in the difficult circumstances of a society still awaiting the consolidation of new social cleavages.

Autonomy - the Church's weak links to the public sphere are generally explained by reference to a communist legacy of anti-political attitudes, or to poor political skills on the part of civic associations. Instead, I argue that the strongest explanatory factor lies with the political programme of the Klaus administration and its *post*-communist inspired concerns to limit power to the Parliament, and more particularly to the executive, where Klaus' party was dominant. I show how Klaus' success was greatly facilitated by the speed of the 'transition', which allowed the easy implementation of a radical ideology by a political entrepreneur who faced little opposition from parliamentary colleagues unable to find 'partners' in a post-Communist atomised society.

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Chapter One

Introduction: the Emergence of Civil Society in Eastern Europe: Church and State in the Czech Republic

1. Civil Society and Democracy

This thesis examines the relationship between civil society and democracy through a study of the emergence of the Catholic Church in the post-Communist Czech Republic. The Czech Republic, along with other ex-Communist countries of Eastern Europe - Poland, Hungary, and Slovakia - can be described as democratic. Each of these countries demonstrates those features that Dahl specifies as the defining traits of a polyarchy: free, fair and open elections; an independent media; free speech; and the right to join organisations that are separate from the state (Dahl, 1989: 221-224). Added to these features, there is a predominant belief that the new political rules are “the only game in town”, thus demonstrating the characteristic that Przeworski argues is the hallmark of ‘consolidated’ regimes (Przeworski, 1991:26)¹.

Dahl’s definition is not without opponents. The main argument against him is that the criteria he uses to define democracy are not demanding enough. (Gunther et al, 1996) His minimum version of

¹ “Democracy is consolidated when under given political and economic conditions a particular system of institutions becomes the only game in town, when no one can imagine acting outside the democratic institutions, when all the losers want to do is to try again within the same institutions under which they have just lost.” (Przeworski, 1991:26)

democracy allows inclusion to the club of democracies, governments that are militaristic, clientalistic, and disregarding of their citizens apart from at election times. Dahl's critics offer a powerful condemnation of these so-called democracies, one so powerful however, that it is liable to exclude from the definition virtually any regime that springs to mind. This is where the problem lies. Where minimum definitions clearly have their weaknesses, maximum definitions are impractical for they are exacting to the extent that they can leave us with no 'democratic' cases with which we can contrast 'non-democratic' regimes. For this reason O' Donnell defends Dahl's standard as reasonable and useful, a standard "that separates cases where there exists inclusive, fair, and competitive elections and basic accompanying freedoms from all others, including not only unabashed authoritarian regimes but also countries that hold elections but lack some of the characteristics that jointly define polyarchy" (O'Donnell, 1996:36).

The acceptance of a minimal definition of democracy such as Dahl's does not, however, prevent a critique of 'really existing democracy' or a discussion about how democracy can be sustained, improved, and deepened. It is on this terrain that many of the debates over the recently revived concept of 'civil society' take place. The concept of 'civil society', for a long time out of use in Western Europe, began to appear in the writings of East European dissidents in the last decade of the Soviet empire. Under authoritarian conditions, the term took on a variety of meanings depending on political circumstances. Its main value, however, was polemical; "a major weapon in the ideological arsenal of opposition forces against state oppression" (Woods, 1995:243), a "slogan" with a "capacity to stir enthusiasm and inspire action" (Gellner, 1994:3, 5), an expression of "a twofold opposition ... civil society was "us"; the authorities were "them" (Smolar, 1996:24).

The term was taken up enthusiastically by academics elsewhere in Europe. The idea that an eclectic mix of organisations and movements could prove a challenge to the Soviet regime was of great appeal to anti-Communists on the western left, a left long under sway to the Marxist view that civil society existed to consolidate states and not to oppose them (Whitehead, 1997:95-99). These clear signs of opposition in Eastern Europe were the driving force of a theoretical attack on the materialist interpretation of civil society. For example, Gouldner's 1980 essay in "The Two Marxisms" argued that "no emancipation is possible in the modern world ... without a strong civil society that can strengthen the public sphere and can provide a haven from and a centre of resistance to the Behemoth state" (cited in Kumar, 1993:381). And Jean Cohen's 1986 "Class and Civil Society" maintained that "no adequate theory of civil society is possible on the basis of Marxian Class Theory" (Cohen, 1986:20).

Western enthusiasm for this latest nomenclature was ultimately secured with the rise to power, albeit temporarily, of self-styled civil society movements in the revolutions of 1989.² It was not surprising, therefore, that the dominant normative proposition of the revived notion of civil society was that it was positively linked to democratisation. The main assumptions in the literature can be summed up as what Ndegwa calls the "civil society-political liberalisation" thesis (Ndegwa, 1996:2). In essence, this is the argument that civil society, once central in opposing the undemocratic Communist regimes, is now central to furthering and deepening the democratisation of post-authoritarian societies.

² For example Lewis writes of the collapse of Communism in Eastern Europe: "Civil society seemed suddenly stronger and more prominent within the context of modern life than anyone had foreseen, and its role in eroding dictatorship and facilitating the establishment of democracy correspondingly more powerful and direct" (Lewis, 1992:2).

Diamond's assertion that "civil society can, and typically must, play a significant role in building and consolidating democracy" (1996:239) illustrates the new civil society perspective.

However, this proposed significance of civil society is regularly cast in functional terms, where the relationship between civil society and democracy is understood in terms of the utility of the former for the latter. Four functions in particular are emphasised here: regulatory, incubatory, representative, and legitimating. First, civil society appears as an auditor of the state's power, capable of criticising this power and pointing out when state power is being abused (see, for example, Diamond, 1996:230; Gellner: 1994:5; Keane:1998:88-89; Potter et al, 1997:265). Second, it is argued that civil society nurtures and develops those civic attitudes necessary for democracy, acting as a training ground for politicians, and producing new political leaders (see Diamond, 1996: 232; Post & Rosenblum, 2002:18). Third, civil society is seen as a place where people of similar interests can gather together and organise their interests to be represented in group form (see Diamond, 1996:231; Post and Rosenblum, 2002:18; Touraine, 1997: 51; Marada, 1997:9-14). Fourth, civil society, by acting through representative political institutions, legitimates and strengthens both these and the state (see Touraine, 1997: 42; Parrott, 1997:23; Diamond, 1996: 234).

In sum, the role charted for civil society in these new democracies is diverse. Yet, novel as this role may be for Eastern Europe, it is nevertheless a description that fails to depart, in any significant way, from civil society's conventionally ascribed role in the west. Central to the relevant literature, as Hirst argues, is an emphasis on the organisations of civil society as of "secondary" value and in a supporting role to the "primary" organisation, the state (Hirst, 1995: 92; see also Fraser, 1992:133). The underlying mechanism in these accounts is an input/output model: civil society

feeds into a representative system that in consequence yields ever greater amounts of democracy. Here, civil society is the monitor of democracy, but it is a democracy that happens somewhere else. Civil society produces leaders, the most important of whom go somewhere else. And civil society aggregates interests, interests that are channelled to somewhere else. In this literature, democracy is always elsewhere, perhaps unsurprisingly so, for it is clear that the democracy under discussion is parliamentary and representative.

The problem with this conception of civil society's relationship to democracy is partly one of emphasis. Certainly the concern with how interests are channelled to central government is an important one; this is the topic under discussion in chapter four of this thesis. But the discussion is, nevertheless, problematic. The overwhelming concern with democracy at the centre, or in what Cohen describes as 'political society', drags us away from democratic possibilities in civil society. These possibilities never get much of an airing because too often they are raised against an omnipresent undercurrent of anxiety, as in Rosenblum and Post, for example, with the "conditions that reinforce overarching norms and that incline groups to contribute to governmental efforts to maintain political stability." (Rosenblum and Post, 2002:14). Precisely where, when, and how much of these overarching norms a democratic society needs is rarely questioned, yet the demands of attempting to combine this ostensible need for deep consensus with the realities of pluralism result in writings whose major conceptual effort is to emphasise the line *between* civil society and the state, instead of thinking about the ways in which that line could be redrawn. For example, there is very little consideration of the possibility of what Marx in relation to the Paris Commune, described as, the "reabsorption of the state power by society as its own living forces instead of as forces controlling and subduing it" (cited in Neocleous, 1995:404). Marx notoriously

conceived of civil society exclusively in economic terms, yet, his concern with social *capacities* is important for its striking contrast to many of the more pluralistic versions of civil society where power is simply absent. This is the point to Fraser's conception of 'weak publics', publics, she argues "whose deliberative practice consists exclusively in opinion formation and does not also encompass decision making" (Fraser, 1992:134). Diamond and Keane and others embrace civil society for its potential to counteract the overweening powers of the state, however, in these versions of civil society, that potential is predominantly realised either at the level of or through the state. If not paradoxical, this is at least unnecessary. A solution to the problem of state power could just as easily concentrate on how to transfer power from the state and government to social organisations, instead of concentrating on how to bring social organisations *into* the government and the state.

Many of these concerns have been addressed by those who have become known as the radical theorists of democracy. Participationists such as Benjamin Barber have argued vigorously that "without public spaces for the active participation of the citizenry in ruling and being ruled, without a decisive narrowing of the gap between rulers and ruled, to the point of its abolition, politics are democratic in name only" (cited in Cohen and Arato, 1992:7). Nevertheless, these ideas get rather short shrift in much of the contemporary literature. In a direct criticism of the participationists (Barber included), Cohen and Arato give the strict warning that:

it should not be forgotten that classical democratic theory rested on an undifferentiated conception of *Sittlichkeit*, that is, on an ethically superior consensus regarding the good to which all must adhere if they choose not to leave. In a modern world characterized by value pluralism and the war of gods, such a conception

is anachronistic.” (Cohen and Arato, 1992:609)

This rejection of the participationist view is just too easy however. It ignores the plausibility of the sort of political models, defended by Hirst, Monsma and Soper, which attempt to combine *both* pluralism and participation (Hirst, 1994; Monsma and Soper, 1997). Hirst argues that “individual liberty and human welfare are both best served when as many of the affairs of society as possible are managed by voluntary and democratically self-governing associations” (1994:19). At the same time, Hirst is intensely pluralistic in his insistence that “citizens need a political community that will enable them to be different, and not one that exhorts them to be the same” (1994:14). Monsma and Soper agree. They point out that “there is not an inherent tension between the need for society to reach some consensus on key social values, with a public polity that accommodates group identities” (Monsma and Soper, 1997:205).

1.1 Civil Society Against Democracy

The major argument in the literature on civil society concentrates on the importance of associational life for democracy. There is, nevertheless, a substantial amount of opposition to this view with many authors maintaining that civil society may just as easily be detrimental to democracy as supportive of it. Kumar attempts to highlight what he describes as the “potential tyranny of civil society”, citing as support, “the strongly authoritarian tendencies in the [post 1989] Polish Catholic Church...along with other forces of a xenophobic and populist kind” (Kumar, 1994:129).³ If then civil society can be both positive and negative for democracy, why, Keane

³ However, what and who these forces and tendencies are, Kumar does not disclose, except to say that they “have revealed themselves only too clearly in the post-1989 period” (Kumar, 1994:129).

asks, should we “cherish it as a practical accomplishment, or as an ideal? Are there any good and compelling reasons why it should be supported?” (1998:50) Rosenblum and Post insist that there are. “Freedom of association,” they remind us “is an independent good, whose value can be realized only within a flourishing civil society” (Rosenblum and Post, 2002:22). Certainly, civil society is not a “sufficient condition” of democracy, but it is nevertheless necessary, “for responsive and accountable democratic institutions” (Rosenblum and Post, 2002:18). In sum, civil society’s relationship to these institutions is to be seen as both contingent *and*, paradoxically, necessary. I would add furthermore that it is *necessarily* contingent. Democracy, Castoriadis, points out, is inherently risky and attempts to maximise or ensure the predictability of the democratic process can destroy the very uncertainty that is the lifeblood of the democratic imagination (Castoriadis, 1987).

1.2 The Problem with ‘Civil Society’

Despite the recurring themes of uncivil societies, the contemporary literature chiefly insists that civil society is an essential and beneficial feature of democracy. The difficulty with this literature however, is that it often fails to specify how this is the case; that is, the question of *exactly* why, or how, civil society makes or does not make democracy work is simply not addressed by many of civil society’s most ardent advocates. Diamond’s discussion of the relationship between civil society and democracy illustrates the shortcomings in the contemporary literature (Diamond, 1996). As a description of the *potential* of civil society to contribute to the building and maintenance of democracy, Diamond’s account is clear and comprehensive. However, what is missing is a consideration of the circumstances under which civil society fulfils this potential.

Diamond notes that not “all civil organisations have the same potential to perform democracy building functions” (Diamond, 1996:234), yet, his remarks on why this is the case produce explanations that lack evidence or tend towards the tautological. For instance, he argues that groups with aims that are opposed to democracy will not make a contribution to building democracy, yet he provides no evidence for this view which is, perhaps questionable. Indeed, a group opposed to democracy could still fulfil those ‘democratic functions’ that Diamond himself is especially concerned with; it could provide alternative information, criticise Government, and aggregate interests. Diamond goes on to argue that if the internal character of organisations is not democratic, this affects the likelihood of democratic norms being encouraged among the members. Again, no evidence is offered to support this proposition, and, while on the surface it seems persuasive, questions about the sources of democratic norms are simply too relevant to the civil society debate to tolerate such cursory treatment. The arguments here are simply too general to be of much use and would be more productive if more clearly specified.

A final example of the problem with overly general arguments is in Diamond’s discussion of the state, a key factor, he contends, in shaping civil society. Here Diamond argues that the degree of autonomy associations have from the state influences their democratic functions. Under authoritarian regimes corporatist arrangements can stifle the emergence of democracy. On the other hand, unrestrained ill-disciplined civil societies can overwhelm the state with demands and pose a particular threat to very new democracies who need support in the transitional period. What is ultimately missing, however, from Diamond’s account is a consideration of why, in any particular society, civil society or its associations grow to be restrained, disciplined, compromising,

empathic, while in other societies they do not, or why some associations enjoy a high degree of autonomy, while, in the same society, other associations do not. There is a similar problem with Nicholas Deakin's discussion of civil society. He remarks that, "where the state's actions are intruding on the civic space, then certain associations in some circumstances can provide an essential counterbalancing element" (Deakin, 2001:110). What circumstances, and which associations, are both left unspecified. Finally, Cohen and Arato, by many accounts the contemporary canonical authors of civil society, provide little empirical detail. To be sure, this was their intention, for their work is explicitly devoted to an attempt to justify the idea of civil society, rather than grounding that idea in any particular set of circumstances. Yet, what we are left with is another addition to an ever expanding literature supporting the *concept* of civil society, to the detriment of a literature that could examine the political *processes* surrounding its institutionalisation.

Diamond's thesis - the "civil society liberalisation thesis" - is that where civil societies develop certain features - democratic norms or autonomy - they assist the democratic process. But the real question that remains is the how and why of this. In what ways, from which causes, and to what ends is civil society democratic? Diamond and others are ultimately unable to address these questions when civil society is treated as a concept abstracted from the contexts of a particular regime. Edwards and Foley affirm this point when they conclude their essay with the remark that:

In the last analysis, concepts such as civil society, state, and market are too coarse grained to help very much in sorting out the variety of initiatives that make up a vital democracy...it will be very difficult to specify in the abstract which characteristics of civil society per se ... contribute to healthy democracy and which do not,

because the specific roster of beneficial characteristics would vary cross nationally and over time along with the socio-economic and political context. (Edwards and Foley, 1998b: 128)

The shortcomings in working purely at the abstract level are acknowledged too by Grazyna Skapska and Andrew Green who, with regard to Eastern Europe, note respectively that “both the celebration of and disappointment with civil society arise because of conceptual deficiencies and, more important, a growing gap between actual political developments and civil society theory” (Skapska, 1997), and that “beyond echoes of 19th-century philosophy ... conceptions of civil society and its relationship to democracy are vague and simplistic” (Green, 1997:309).

1.2 Empirically Grounding Civil Society

‘Transition’ academics agree that across Eastern Europe, democracy has consolidated itself in a surprisingly short space of time. There is, nevertheless, a feeling that “procedural democracy that appears robust institutionally remains weakly rooted socially, and formally democratic government appears to be the province of politicians and elites who operate quite independently of the real concerns of many” (Comisso, 1995:19).

As such, the interests of the advocates of civil society are well placed, moving away as they do from what has been an overemphasis on the development of state and parliamentary institutions to the question of what may bind those institutions into society and to the question of what post-Communist citizenship will mean in the new political arrangements. In these post-Communist regimes of Eastern Europe, the presence or absence of civil society is increasingly proposed as an indicator of the strength of democracy.

As the space denoting the realm of engaged autonomous citizenry, civil society is certainly a welcome antidote to the traditional reliance on fair elections and free speech as democracy's constitutive features. Nevertheless, studies of democratisation that have taken this recent civic turn often fail to tell us much about the strength of those organisations which are part of the so called 'third sector.' While much has been said of the important role to be played by civil society for the durability of democratic institutions, there is little in the way of empirical investigation. Equally, while there are many definitions of what civil society is and what, or who, is involved in it, and where it is located, there is little that identifies the processes by which it emerges and the factors that enable and delimit its role. The slow but steady growth of non-state, autonomous organisations in Eastern Europe has been asserted, yet without an investigation into how these organisations develop, establish or re-establish themselves under democratic conditions, we are missing an important part of the picture of how this sphere grows. In short, civil society has been over-theorised and under researched. While we may know the reasons why civil society was suppressed under Communism, we do not know the reasons for its emergence, or indeed for its continued suppression under democracy. An understanding of why civil society emerges and of the shape that it takes may well demand reflection on the way the term has been understood to date.

This paucity of empirical research has become the subject of increasing comment. Edwards and Foley, commenting on the absorption of the civil society debate into definitional disputes, point out that "boundary maintenance efforts generally come at the expense of empirical inquiry into how social phenomena actually work" (Edwards and Foley, 1998b:127). It is a view given support by White, Howell and Xiaoyuan who, in their work on intermediary organisations in China, argue the importance of distinguishing

“between civil society as an ‘ideal type’ concept which embodies the qualities of separation, autonomy, and voluntary association in their pure form and the real world of civil societies which embodies these principles to varying degrees” (White et al., 1996:6). Similarly Robert Hefner writes, “to realise its promise, the concept of civil society must be more firmly tethered to its sociological and cross-cultural moorings, and analysed in relation to real social worlds” (Hefner, 1998b:7). And finally, Emirbayer and Sheller note, “the inability of analysts interested in civil society ... to move beyond the normative level by incorporating research techniques and insights from empirical sociology” (1998:729).

2. The Research Question

This thesis subjects the claims of civil society theorists to empirical enquiry. The aim of the research is to arrive at an account of those factors causally identifiable for the democracy-building nature of civil society. Thus, the central research question that is the starting point of the study can be defined as follow:

Where civil society is argued to be significant for the extension of democracy, how can one best explain, in sociological terms, the determinants of this process? or

In short:

Why is civil society important for democracy?

The empirical examination of civil society and its role in democracy confronts an immediate obstacle: there is no established strategy for proceeding with such an investigation. To date, opinions on post-Communist civil society have addressed civil society only as a broad category. Either the referent is civil society as the sphere within which groups and organisations will act with little reference to the

groups and organisations themselves. Alternatively, the referent is an aggregate of a large number of groups or organisations which, it is supposed, will continue collectively to further the task, begun in some countries prior to 1989, of defining and institutionalising the borders that will delimit the civil sphere from interference by the state.

In contrast to these approaches, a small number of studies outside of Eastern Europe have attempted to research the conditions and workings of civil society by using case studies of one or two of its constitutive organisations. Ndegwa, Mac Donald, and He are three researchers each of whom in the last few years has undertaken empirically grounded studies of civil society in countries attempting to confront authoritarian pasts (He, 1997; MacDonald, 1997; Nedgwa, 1996). All three adopted an approach of analysing civil society in terms of the organisations of which it consisted. By subjecting one or two of these organisations to a close examination, these authors were able to provide a clearer picture of the processes that hinder or enable the development of civil society within which these organisations were operating.

Ndegwa's research on non-governmental organisations in Kenya described how two highly similar organisations operating under broadly similar conditions responded very differently when given an opportunity to support the Kenyan democracy movement. This led Ndegwa to consider the importance of the personalities of non-governmental leaders as a key determining factor in civil society's relationship to democracy. Ndegwa's study is interesting because it challenges the predominant view that civil organisations in developing countries are unquestionably a counterbalance to state authority. What is especially relevant about his work is that it highlights the importance of making the central focus of enquiry the factors responsible for the democratic role of civil society rather than

simply describing this process when it does occur. MacDonald's research in Latin America also led her to challenge the thesis that civil society was inherently pro-democratic. And Baogang He's findings forced a reflection on the limitations of the concept of civil society, culminating in the development of the idea of a semi-civil society to explain the function of organisations in China that were in part sponsored by the state and in part independent.

Regardless of the individual merits of this work, what all these authors succeeded in doing was to produce more nuanced understandings of civil society than is presently the case with research on Eastern Europe. Following this work, this thesis approaches the question of civil society by focusing on one civic association's attempts to establish itself in the newly democratizing environments of Eastern Europe. Civil society varied greatly as to its importance in the last decades of Communism and in the role it played in the overthrow of the state. Now, under the post-authoritarian democratic regimes, the extent to which it is possible to theorize in the general case *the* role of civil society abstracted from national contexts is equally limited. At this early stage in the development of new political systems, arguments on the role of civil society should aim to be carefully *grounded* claims.

He, MacDonald, and Ndegwa, adopted the case study approach in their examinations of civil society in Kenya, Latin American, and China. The case study has been established as a highly effective research strategy. Yin argues that it is a particularly appropriate method, with "when, 'how' or 'why' questions...being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon with some real-life context" (Yin, 1989:13). Yet, the case study, whether single or multiple has often been criticised on the grounds that the results apply only to the case or cases in hand, and cannot be generalised to

other instances. Against this view Yin insists that the case study is generalizable. However, it is “generalizable to theoretical propositions and not to populations or universes ... the investigator’s goal is to expand and generalize theories (analytic generalization) and not to enumerate frequencies (statistical generalization)” (Yin, 1989:21).

3. The Case Study: the Czech Catholic Church

I choose the Czech Catholic Church as a case study of a civic organisation’s emergence under, and relationship to, democracy. This methodological strategy is explicitly a *single* case study of a single civic organisation: the Catholic Church in a single country, the Czech Republic. Yin recommends the adoption of a single case over a multiple case approach when one of three conditions are present; the event in question is a “critical case”, an “extreme or unique case”, or a “revelatory case” (Yin, 1989:47). The case of the Czech Catholic Church in the context of the proposed study exhibits all of these features. First, the case can be regarded, in Yin’s terms, as critical because it contains within itself all the elements capable of testing a certain proposition. It is a non-state organisation in a newly democratising environment, and can be used to “confirm, challenge, or extend the theory” that civil society is vital for democracy (Yin, 1989:47). Second, the case of the Czech Catholic Church is unique for a few reasons. The Czech Republic is one of the few countries in the world whose majority religion is at the same time a religion traditionally perceived in that country as anti-national. The Czech church also suffered a much greater degree of repression under Communism than any other church, either within the Czech Republic or in the neighbouring East European countries. As such, there is a certain distinctiveness to the experience of the Czech Catholic Church. The more liberal attitude adopted by the

Communists towards religion in Poland and Hungary, or the strong association between Catholicism and the nation in Slovakia and Poland, means that the issue of restitution (discussed below in Chapter Two) or the question of communication links with the state (discussed in Chapter Four) is posed in each of these countries in very different ways. Third, the case of the Catholic Church is revelatory, it provides information on a unstudied topic, the little researched post-Communist Czech Catholic Church. The case also provides information on the more generally under-researched area of the religious organisation as a part of civil society.

As an example of an organisation whose relationship to democracy is held to be ambiguous, the case of the Catholic Church highlights the limits of abstract theorising unaccompanied by empirical inquiry. Under authoritarian or non-democratic regimes, the Church has often provided a space for the gathering of forces opposed to a repressive state. The contribution that religious organisations made to the overthrow of undemocratic forces is established in Poland, South Africa, and many parts of Latin America (see for example, Hewitt, 1990; Kuperus, 1996). Yet in other authoritarian regimes this has not been the case; Spain before the 1960's and Chile are both examples where the Catholic Church proved predominantly to be a bulwark of support to the government. While the role of religious organizations under repressive circumstances seems to vary from one of accommodation with the regime to one of outright rejection, the role of the Catholic Church in democratic societies is more typically considered a conservative force. The Polish Catholic Church in recent times has generated most interest among commentators in Eastern Europe. Given its prior position as the main institution in civil society opposed to the Communist regime, its behaviour in the new democratic state has caused dismay and stimulated criticism. (see, for example, Tempest,

1997:137)⁴ On the other hand, broad generalizations regarding Catholicism and democracy are difficult to sustain. The opposition of the Vatican to the bombing of Iraq, the active role of the churches in Britain's anti-debt movement, and most recently the Pope's criticism of capital punishment in America all militate against a too easy take on the role of organized religion in democratic societies.

This ambiguity of the church's relationship to democracy has been addressed by Jose Casanova. Casanova suggests three alternative models of existence for the church in democratic societies. First, a model of privatised Catholicism, where the church confines itself to a strictly private sphere and carries out purely religious activities and duties. Second, Catholic hegemony in civil society where nation and church closely identify with each other and are resistant to secular interests or the interests of other religious groups. Finally, Catholic pluralism where the church regards itself as part of civil society, rather than political society, accepts ethical diversity, but continues legitimately to try and influence secular spheres (Casanova, 1993). In many parts of the ex-Communist world, it is still unclear which of Casanova's three models will ultimately entrench itself. This is true also of the Czech Republic where two of Casanova's models; privatised Catholicism and Catholic Pluralism, have their distinctive supporters.

3.1 Church and Civil Society in the Czech Republic

The Czech Constitution, adopted on 16th December 1992, declares that, "Democratic values constitute the foundation of the State, so that it may not be bound either by an exclusive ideology or by a

⁴ Tempest charges the Polish Catholic Church the lack of "an accommodative and bargaining mentality, but one informed by an absolute moral certainty" (Tempest, 1997:137).

particular religious faith.”⁵ While the Constitution clearly favours a state strategy that is neutral and non-partisan towards religious organisations, it nevertheless leaves open to question what the content or details of the arrangement between state and church should be. In practice, state-church neutrality has been open to a variety of interpretations. In the United States neutrality is understood to demand the equal consignment of all religions to the private sphere, while in the Netherlands the state strives to ensure that religious organisations have equal opportunities to act in public (see Monsma and Soper, 1997). Yet, even among those countries where church-state neutrality is understood as *compatible* with a public role for religion, questions about the nature of that public role, its protection, its limits, and its financing have found diverse solutions.

In the Czech Republic, these substantive questions about the role of churches have arisen within the context of a broader debate about the nature of post-Communist democracy. Hadjiisky describes the two main and opposing views of democracy that have emerged in the Czech Republic as ‘participatory’ and ‘majoritarian’ (Hadjiisky, 2001).⁶ The participatory model, dominant in the 1989-1992 Government of Civic Forum, aims to place “the citizen at the centre of political life by promoting various kinds of civic participation in public affairs” (Hadjiisky, 2001:45).⁷ This model was displaced by an elite, Schumpeterian, ‘winner take all’ approach of the Civic

⁵ Article 2 (1) General Provisions, Chapter One, Charter of Fundamental Rights and Basic Freedoms adopted under Article 3 of the Czech Constitution as a part of the constitutional order of the Czech Republic. 16 Dec. 1992. See the Czech Parliament’s website at www.psp.cz.

⁶ A similar distinction to Hadjiisky is drawn by Potucek (2000), and by Marada (1997). See also Dryzek and Holmes (2000).

⁷ In his article, Marada notes that there were distinct developmental stages in the articulation of a Czech participatory model; a pre-1989 phase, the 1989 to 1992 phase, and

Democratic Party (ODS), the main party in Government from 1992-1997, a party firmly committed to a “a delegative conception of democracy in which the relation between the citizen and the state is expressed through the mere act of voting” (Hadjiisky, 2001:58). The outcome of the 1998 elections brought predictions for a more inclusive, less magisterial style of government. These expectations were modified substantially when the Social Democrats (CSSD) short of a ruling majority signed an opposition agreement with the ODS. “Thanks to this agreement, and despite its electoral defeat, the ODS has retained a major and very direct influence on parliamentary debates and on the government’s policy” (Hadjiisky, 2001:60).⁸

This thesis seeks to establish and explain the extent to which the status of the Czech Catholic Church is the product of continuing attempts to institutionalise a post-Communist democratic society. In both its versions, participatory and elite, Czech democracy is resolutely liberal in its commitment to the rights-bearing citizen exercising his or her freedom in a sphere of activity habitually referred to since the collapse of Communism as civil society. However, in the elite view, this civil society is an organised set of *individual* and *private* interests where the freedom of the citizen is wholly secured through legislation that minimises as far as possible, the intrusions of the state. This perspective has been critically modified by the participatory approach which argues that individual freedoms are best produced when supplemented with the recognition and protection of those groups and organisations *through which the individual acts*. Moreover, the participationists maintain that, far from being matters of private concern, the activities of these groups

a third phase after 1994.

⁸ However, the Social Democrats (CSSD) emerged the victors in the June 2002 elections with 70 seats against the ODS’s 58. Subsequently, the CSSD formed a coalition Government with the KDU-CSL and the Freedom Union-Democratic Union (US-DEU) giving

are more appropriately described as public, albeit a public lying outside the state and the realm of formal Government.⁹

These diverging perspectives on the conditions of freedom have important policy implications. Participationists typically argue that proper recognition of groups and associations requires the creation and preservation of the resources that allow groups to govern themselves. This can involve directing public monies away from the state and towards various publics in civil society, and can also include the involvement of civic organisations in broader public debates that concern their way of life. Democratic elitists disagree. They argue that freedom is best protected by leaving public decisions to elected representatives. Indeed, ordered and stable decision making is only possible if these representatives are “shielded from too much participation by the population: Citizens must, as it were, accept the division of labour between themselves and the politicians they elect” (Cohen and Arato, 1992:6).

3.2 Researching the Czech Catholic Church.

The status of the Catholic Church in many Eastern European countries and the issue of which church-state regime will ultimately be consolidated is still uncertain. This is particularly the case in the Czech Republic where civil society under Communism suffered an unusual level of suppression. Although church life across Eastern Europe operated under great restrictions, in countries such as Poland and Hungary there emerged in the last decades of

them a slim majority of 101 seats in the 200 seat member chamber.

⁹ Indeed, as Hirst (1997) argues this is increasingly the case in Western Europe where civic organisations undertake an ever-expanding range of governing functions. See also Monsma and Soper who note in their research that “the religious communities of all five countries considered in it are concerned with a wide range of public policy questions and are active in providing education, health care, and other social services”. (1997:9).

Communist rule, genuine and sustained opportunities to renegotiate the boundaries of freedom of expression. In Czechoslovakia, however, apart from the brief days of the Prague Spring, repression was severe until the end, and the post-Communist question of the place religion is to have in society raised its head for the first time only in 1989.

The case of the Catholic Church in the Czech Republic represents, therefore, a particularly interesting case study. This relatively uncharted territory might have been expected to produce a flurry of scholarly activity, yet religious organisation in the Czech Republic has received little attention from academics.¹⁰ Two factors suggest themselves as responsible. First, the extent to which the churches in the former Czechoslovakia were repressed gave them, in comparison to the Polish case, small opportunity to perform an oppositional role. They consequently were of little interest to academics charting the role that civil society played against the Communist state. Secondly, the lack of interest in the church among those academics concerned with democracy is perhaps stimulated further by the belief that the Catholic Church, so long repressed, would emerge from Communism untainted by the liberalising elements, especially the decentralising features of Vatican II, to play a conservative role in Czech society.

In trying to determine what questions to ask of the church and its relationship to civil society, the literature has been useful in helping to clarify what those questions should be. This is very much in line with Yin's recommendation that a review of the literature

¹⁰ There is a fairly substantial literature on Catholicism and the Catholic Church *prior* to 1989. The post 1989 literature is however minimal and mostly lacking in discussion of political or structural change. See for example DiDomizio (1997) and O Madr (1991). Ramet (1991) is an interesting account of the changing legal status of the church in the early post-Communist period. Jonathan Luxmoore (1995) (1996) (1997) provides a yearly news roundup of religious issues in Eastern Europe. See also Reban (1990); Jandourek (1997a) (1997b); Nash (1993); Halik (1991); and Michel (1992).

should not determine the answers, but should develop “sharper and more insightful questions about the topic” (Yin, 1989:20). What is clear in the literature looked at in the early part of the chapter and indeed in Casanova’s model is that factors both external to a civic organisation and internal to it can impact on its positioning in civil society and its role in democracy.

External Factors

The state as the major institution external to the church provides the initial legal guarantee for the operation of free associations. Yet the state is not a disinterested party. The elevation of the Orthodox Church in Russia to the ‘state religion’, with the consequent institutionalised privileges this brings, clearly upholds Baogang He’s argument that social associations can “provide not only a new channel for the state’s social control, but also a tool or source for legitimation” (Baogang He, 1997:18).

The state’s role in the development of civil society is a central concern of much of civil society theory. Yet, important as this focus may be, there is, at the same time, a notable failure to think beyond, or to move beyond the state. Any consideration of the Catholic Church as an organisation within civil society must however confront the inadequacy of approaches that remain bounded by national territory. The power of the Vatican *vis-a-vis* the local church, the treaties and concordats that exist between the Holy See and various nation-states, the status of the Vatican on European Union decision making bodies, all go to underline the truly trans-national character of the Catholic Church. As such, civil society theorists need to rethink the presumed inevitability of the state as the organisation “that claims a monopoly over the right to determine the forms of

governance within a definite territory” (Hirst, 1997:115, see also Hoffman, 1995).

The role of political parties is important too. Any organization that needs to affect policy decision at the national level must have the internal strength and capacity to forge a coherent identity and set of aims. However the ability to get those aims heard will be greatly enhanced through influence with professional politicians. With respect to civil society’s representative function, it is undoubtedly the case that, “political parties are the gatekeepers who can selectively strengthen or weaken the voice of interest groups in policy-making” (Fink-Hafner, 1998:292).

Internal factors

In terms of structure and belief, factors internal to the Catholic Church are important in a number of ways. The church’s hierarchical structure has proved a double-edged sword in terms of its potential impact on democratisation. The Catholic Church’s status as a supra-state body with its primary power base in Rome has often given it added political leverage against authoritarian regimes. The strongly centralised and disciplined nature of the Catholic Church in Poland made it an efficient force in countering the Communist state. However, this same hierarchical structure has often impeded attempts by lower ranking members to address democratic deficiencies both external and internal to the Catholic Church (McGuire, 1992:238).

Catholic beliefs have been used in the service of both radical and conservative ends. Thus, on their own, the *content* of these belief systems cannot be considered a sufficient condition of social or political transformations. Yet the availability of certain discourses that can be appropriated by forces for change can make of them

important factors in some contexts. Jose Casanova notes that “the official policies coming from the Second Vatican Council gave the modern sectors of Spanish Catholicism the leverage they needed to pressure the hierarchy and to confront the regime” (Casanova, 1993:83). Policy documents such as the 1963 encyclical *Pacem in Terris*, the second Vatican Council’s *Gaudium et Spes*, and the encyclical *Populorum Progression*, all served to legitimate the writings of the influential Spanish Christian Democratic movement on a wide range of political and civil rights. But what ultimately “tipped the balance of forces in favour of the new Catholicism” was the Vatican’s introduction of new rules governing the composition of Spain’s Bishop’s conference which heralded the coming to power of the reform wing of the church (Casanova, 1993:84-85).

In Poland too, the content of new publications emerging from the Vatican served as sources for new appeals on a wide range of political matters. The Vatican *aggiornamento*, which in its essence was a recognition of Enlightenment principles set the stage for the forging of links between religious and non-religious intellectuals. “The pastoral letters of the Polish bishops and the pronouncements of the Pope served to legitimate religiously the model of a differentiated and pluralistic society” (Casanova, 1993:101-102). This allowed the coming together of secular and Christian anti-Communists, thus greatly increasing the strength of the pro-democracy movement (Michnik, 1993).

3.3 A Working Model of Civil Society.

Useful models of civil society must contend with the relevance of both external and internal factors to the conditions and development of associational life. For this reason, Philippe Schmitter’s ideal type model of civil society is particularly attractive. For Schmitter

(1997:240)¹¹, civil society “refers to a set or system of self-organised intermediary groups or organisations which:

1. are relatively independent of both the state and private units of production and reproduction, i.e. of firms and families;
2. are capable of taking collective action in defence/promotion of the interests or passions of their members;
3. do not seek to replace either state agents or private (re)producers or to accept responsibility for governing the polity as a whole;
4. do agree to act in ‘a civil fashion’ within pre-established rules.

Schmitter’s model addresses both the external and internal dimensions of a civic organisation’s existence. The model’s first feature raises questions about the conditions of an organisation’s existence, in particular that determined by its relationship with the state. The model’s second element raises questions about the conditions of associational action and the spaces within which action will take place. The final two features are concerned with the nature and substance of institutionalised norms within organisations.

I adopt Schmitter’s model as a working definition of civil society.¹² Three of the elements of his model; independence, collective action, and civility, serve as the key reference points around which I have organised the body of research. The research question - the

¹¹ These elements are also to be found in other discussions. For example, Bryant contends that civil society involves “association, autonomy and civility as well as communication” (Bryant, 1994:497).

¹² For an attempt to empirically ground Schmitter’s concept, and the only one I am

importance of civil society for democracy - is explored through a definite strategy, that takes each of these features of civil society through a series of four steps: first, I attempt to clarify the meaning of the feature in question; civility, independence, or collective action. Second, I ask what is the relationship of the feature to democracy. Third, I establish the extent to which the feature exists in the case under study; the Czech Catholic Church. Fourth, I seek to explain the feature by asking how and why it is developed or undeveloped to the extent that it is.

The feature of Schmitter's civil society that is least discussed in this thesis is what he describes as "non-usurpation": where an organisation does not "not seek to replace state agents...or to accept responsibility for governing the polity as a whole" (Schmitter, 1997:240). This would have been a relevant aspect to examine were the case study to have been, for example, the extreme nationalist party in Slovakia. However, in the case of the Universal Catholic Church, the support for the non-usurpation principle has become increasingly entrenched since Vatican II's almost unanimous vote in support for the *Dignitatis Humanae* (Declaration on Religious Liberty) (Coleman, 2002). There are, of course, those who adhere to an older claim "for a church hegemony over the morality of state and society"; a position that Coleman claims now lacks "articulate spokesmen or suasive argument and would seem to be ruled out by the authoritative character of the conciliar document" (Coleman, 2002:231). In any event, this older claim is intended for assertion "when Catholics are a majority"; unlike the Czech case where atheists outnumber Christians. As such the unquestioning acceptance by Czech Bishops of the legitimacy of both the democratic state and the plurality of social life is perhaps hardly remarkable. Nevertheless, the question of what exactly is the dividing line

aware of, see Baogang He (1997).

between state and society, where that line should be drawn, and who decides where it should be drawn, are all questions at the heart of debates about civil society, and its institutionalisation. As such, these questions and issues do appear throughout the thesis, and this issue of non-usurpation is returned to in the conclusion in chapter six.

4. The Structure of the Thesis

Following the introduction, there are five additional chapters to the thesis. In each chapter, the explanatory strategy I adopt follows the idea of the 'plausible rival hypothesis.' "This strategy", Campbell argues, "includes seeking out rival explanations of the focal evidence and examining their plausibility" (Campbell, 1989:7). "The objective is to pose competing explanations for the same set of events" (Yin, 1989:16). "By comparing each theory with the actual course of events", one can show "how one provides the best explanation" (Yin, 1989:16).

4.1 Chapter Outline

Chapter two addresses the first of Schmitter's dimensions of civil society; independence from the state. The empirical focus is to establish the extent to which the Catholic Church has achieved independence from the state. I examine the demands of the church for the return of its property, seized by the Communists in 1949, and focus on two major arguments, which suggest respectively, that either an historic anti-Catholicism or the contemporary exigencies of justice account for the nature of the struggle over church economy. Chapter three continues this inquiry by examining the argument that party ideology is a better explanation than public opinion, or justice,

for the continued conflict over church restitutions. Given the lack of material on the politics of restitution, the empirical focus in the chapter is to reconstruct the shifting positions of political parties on the restitution issue. In chapter four I examine the second of Schmitter's dimensions of civil society; capacity for collective action. The empirical work aims to establish the nature of the relationship, on the local and national level, between the Catholic Church and the Czech state. I consider the arguments that a Communist legacy of anti-political attitudes or poor political skills on the part of civic associations explain the church's role in discussing and determining those aspects of public policy that directly affect it. In chapter five I examine the final element of Schmitter's model; associational civility. The empirical focus is to establish the extent, and source, of democratic norms among the elite of the Catholic Church. I examine the strength of competing explanations that focus respectively on associational structure or broader political culture.

5. Methods and Sources

Yin argues that "the case study's unique strength is its ability to deal with a full variety of evidence - documents, artifacts, interviews, and observation" (Yin, 1989:20). The research undertaken here is heavily reliant on a combined assortment of primary and secondary material. Two sets of interviews proved extremely useful for descriptive, illustrative, and evidential purposes. The first set of interviews was carried out in the Czech Republic in October and November 1998. In this period, I interviewed politicians from three of the main Czech political parties and most of the key members in the church's principal decision making body, the Czech's Bishop Conference established on March 30th 1993. A further four interviews were carried out in September 2001. A full list of interviewees is provided

in Appendix A. The interviews were based on open-ended and semi-structured questionnaires, and lasted between one and two and half hours,. All the interviews, bar the one with Bishop Ljavinec, were taped (see Appendix B for the questionnaires).

This material is supplemented by a second set of interviews with Czech religious elites and members of the Czech underground church. This second set of interviews was carried out in 1993 by a small independent Irish film company, Esras. What proved to be an extremely useful source of information was material given to me by Esras, a small Irish film company devoted to religious affairs. Esras produced two short documentaries for Irish Television on religion in the Czech Republic. They gave me the complete transcripts of interviews they had carried out for their research. The majority of material in the transcripts has not appeared in the public domain either on television or in print. The translator for the Irish research and film team was Eva Sharpova, a prominent Czech journalist, and the BBC's main Czech Correspondent before the 1989 collapse.

Both sets of interviews were essential to the research because the views of religious elites on key issue surrounding civil society are not known. Some of the interviews, or more commonly 'soundbites', published in newspapers are of too brief a character to be useful for authentic research. However, as far as possible, I have included both public and private statements to guard against the accusation that interviewees may be expressing opinions to me, that they do not, or are unlikely to express elsewhere. The purpose of the interviews was to find out how bishops and politicians regarded their relationship with each other, how they regarded the appropriateness of that relationship, and their attitude to civic association in general. The questions are designed with the aim of exploring the extent to which the church could be regarded as democratic and the conditions under which this might occur. The importance of both internal and

external factors that might contribute to or negate this potential was borne in mind in the design of the questionnaire. The main sources for the secondary material were Radio Free Europe Reports, Radio Free Europe's 'Transitions' journal, the Czech News Agency (CTK), the Open Society Archives in Budapest, and Czech newspapers: Mlada Fronta Dnes; Lidove Noviny; Lidove Democracie; Rude Pravo; the Prague Post; and the Satirical Journal, Nevidelny Pes. Non-Czech sources included The Tablet, the Financial Times, The Guardian, BBC Monitoring service, Reuters News Service, the Associated Press, and Agence France Presse International.

6. Conclusion

The key proposition in the contemporary literature on civil society is that civil society is essential to democracy. Yet an important gap in the literature is the failure to examine the political processes by which such a relationship becomes established. One obstacle to such an investigation is the failure to treat the concept with any empirical rigour. 'Civil society' is often treated as an aggregate concept abstracted from any real world environment. This makes it difficult to see how and why any particular civil society emerges, how distinct features of civil society may develop differently and at different times, and how any particular relationship between civil society and democracy might occur. This thesis seeks to avoid and compensate for these failings. It adopts a case study strategy capable of developing civil society liberalisation theory, and adopts a working model sensitive to both the discrete features of civil society, and to the internal and external factors that affect or inhibit the development of these features. In doing so it throws light on the question of what factors should be considered in any analysis attempting to understand the obstacles and opportunities to the re-

growth of civil society under the democratic conditions now prevailing in Eastern Europe.

The thesis is relevant to the question of the revival of both civil society and the public sphere in post authoritarian societies. It contributes to an existing body of knowledge on this issue in the following ways. The empirical work carried out for the thesis contributes new and primary material on the attitudes of key political figures regarding the role of state-society relations and on the Czech Catholic Church, in particular the attitudes of the elites of the church about their role in Czech society. The in-depth focus on the Catholic Church as an organization within civil society suggests a framework for understanding relations between religious groupings and political groupings and the institutionalisation of church-state regimes in post Communist societies. Finally, by calling attention to the factors that prove relevant to the emergence of 'intermediary organisations' in the Czech Republic, in particular, but not exclusively, the Catholic Church, the thesis contributes to the theory building efforts of researchers considering the role of civil society in general.

Chapter Two

Economic Freedom: Justice versus Culture.

1. Introduction

In Chapter One, I adopted Schmitter's definition of civil society as an ideal type working model for the thesis. Schmitter suggests that civil society refers to "a set or system of self-organised intermediary groups or organisations" which has four conditions. The first of these conditions is "dual autonomy" where organisations or associations must be "relatively independent of both public authorities *and* private units of production and reproduction, that is, of firms and families" (Schmitter, 1997:240). Schmitter does not elaborate on this description of autonomy, but his elision of the terms 'independence' and 'autonomy' is immediately problematic. Hannah Arendt made the case for regarding independence as a subset, or condition, of autonomy rather than its equivalent. She argued that one could be liberated, or become independent, *from* domination, and yet still not *become* autonomous (Arendt, 2000:442).

A similar, and earlier, distinction was drawn by Berlin when he categorised the concept of freedom into two types: positive freedom and negative freedom. Like Arendt's 'independence', Berlin's negative freedom denotes an absence, rather than a presence. Negative freedom is "the area within which a man can act unobstructed by others". (Berlin, 2001: 128). It is the area within which one is *not* prevented from doing something, the choices that one could make if one wished to. The measure of negative freedom then is not 'action'

but ‘opportunity. It is “the opportunity to act, not action itself” (Berlin, cited in Warburton, 2001: 6).

Positive freedom on the other hand is about action. Berlin described what he means by positive freedom in the following way:

deciding, not being decided for, self-directed and *not acted upon*...conceiving goals and policies of my own and realising them...to be conscious of myself as a thinking, willing, *active* being, bearing responsibility for his choices and able to explain them by reference to his own ideas and purposes. (Berlin, 2001:133, emphasis mine)

For Arendt too, freedom, or autonomy, “is primarily expressed in action” (Arendt, 2000:444), and indeed, in Schmitter’s own model of civil society, it is with the addition of his second feature that just such a distinction between freedom *from* action and freedom *in* action, becomes possible. Here, in his second condition of civil society, Schmitter’s ideal typical association is more than simply independent from the state but also “capable of deliberating about and taking collective actions in defense or promotion of [its] interests or passions” (Schmitter, 1997:240).

The consequences of the failure to distinguish between independence and autonomy are evident in the early writings on post-Communist Eastern Europe. Many of these writings tended to assume that an active civil life would automatically emerge upon the demise of the authoritarian state. In Eastern Europe, this did not happen; on the contrary, there was a rapid decline in many of those organisations which had been most active in the late 1980s; the peace and environmental movements, for example. (see Holmes, 1997). At the heart of these early predictions for civil society lay the presupposition that autonomy is the equivalent of independence, an assumption that had the effect of denying the conceptual space within which to consider that the causes of independence, or of its

lack, may well be different from those of autonomy. This was precisely the sort of confusion that Arendt's understanding of freedom sought to avoid. Commenting on the historical understanding of the term, she writes,

The status of freedom did not follow automatically upon the act of liberation. Freedom needed, in addition to mere liberation, the company of other men who were in the same state, and it needed a common public space to meet them - a politically organized world, in other words, into which each of the free men could insert himself by word and deed. (Arendt, 2000:442)

Arendt reminds us that any discussion about the emergence of civil society in Eastern Europe must bear in mind that the processes that bring about independence or liberty for civic associations are distinct from those that may bring about, or institutionalise, the autonomy, or freedom of associations. With this in mind, the central inquiry of this chapter begins by replacing Schmitter's first feature of civil society, 'autonomy', with the term 'associational independence'; the meaning that Schmitter, I suggest, intends in any case to convey. Following this distinction, the focus of this chapter is restricted mainly to an examination of associational independence while the issue of associational autonomy will be the focus of Chapter Four. In the current chapter, the aims are: to consider the relationship between associational independence and democracy; to establish the degree to which the Catholic Church in the Czech Republic could be considered an independent organisation; and, finally, to ask how the nature of the independence of the Czech Catholic Church can be accounted for.

2. Associational Independence and Democracy

What is the relationship between associational independence and democracy? Is civic independence important for democracy? How much does associational independence from public authorities protect democracy, and how does it threaten democracy?

Organisations and associations certainly need to have *some* independence from the state, for otherwise there is little reason to regard them as anything other than the state itself.¹³ However, it is the nature, and degree, of that independence, that are often critical for determining an organisation's capacities. Some interference by the state, direct funding, for instance, may strengthen an organisation; indeed it may even ensure an organisation's survival. At the same time, this increase in strength may perhaps be secured at the cost of an organisation's freedom. The European Commission, for instance, has a large budget for the funding of environmental organisations which helps many groups to carry out their activities. Yet a glance at the commission's website reveals that this funding comes with the condition that "the proposed activities must not, directly or indirectly, send messages which conflict with Community policies or be associated with an image, which is not in keeping with that of the institutions."¹⁴

¹³ For example, it is difficult to see how there was anything *non-state* about the Czechoslovak religious organisation *Pacem in Terris* regarded under Communism as the official Catholic Church. This association, established by the Communists in 1941, was monitored so closely by state officials that it carried out no independent activities at all. Its priests were appointed directly by the state, all of whom swore an allegiance to the state. Priests were expected to, and did, support state policy, for example policy on abortion. Publications, writings, letters, and speeches were all sanctioned by state officials. Rallies and parades were also organised by the state.

¹⁴ The European Commission's funding document 'Financial Support for European Environmental Organisations' can be viewed at [http://europa.eu.int/comm/environment/funding/ finansup.htm](http://europa.eu.int/comm/environment/funding/finansup.htm). The relevant section comes under point 3. 'Exclusion

Clearly, dependence on public authorities can have serious consequences for the independence of organisations. Larger organisations may more easily avoid these consequences by, as in the case of Greenpeace, simply refusing funding from public authorities. Poorer organisations, however, do not have such a choice. The issue is of particularly significance in Eastern Europe where a notable feature of the non-profit sector is “the overwhelming dependence of civil associations, particularly those in social, health, or human rights services, on state funds” (Green and Leff, 1997:73). Damohorsky’s research on the Czech Association for the Protection of Nature acknowledges its increased income after 1989. She maintains, nevertheless, that the continued reliance on the Government budget is “at the expense of objectivity of expression and free speech, because it makes organizations censor themselves” (Damhorsky, cited in Potucek, 1999).

The case of both the European Commission and the Czech Association for the Protection of Nature illustrate well the paradoxes of patronage. This is what Habermas described as the “ambivalence of guaranteeing freedom and taking it away”; where it is the “very means of guaranteeing freedom that endangers the freedom of the beneficiaries,” (Habermas, cited in Stewart, 2001:165). These examples show that in terms of the relationship of civic independence to democracy, a group’s financial dependence on the state may very well stifle the sort of democratic functions discussed in the previous chapter, for organisations may hold back from overtly criticising the state for fear that it will imperil their funding opportunities. Associational functions aside however, a funding process that makes self-censorship a rational choice is a strike to the very heart of liberal democracy; freedom of speech. Likewise, any

criteria’. Thanks to Clare Coffey of the Institute for European Environmental Policy for drawing my attention to this.

funding process that fails to question associational reliance on the state strikes at the heart of an even deeper regulating norm of democracy; the self-managing society.

While it is clear that the granting of independence to a civic group can improve or deepen democracy, at the same time, it is obvious that such independence is only a necessary, and not sufficient, condition of any democratising functions associations may have. If independence is a necessary requisite of democracy, it is also somewhat paradoxically contingent. What an organisation will do with its independence is unknown, similar to the question of what an individual will do. Yet despite this contingency, despite the fact that civic independence may not deepen democracy, Mill argued that the importance of independence was not just that it was necessary to democracy, but also that it went beyond democracy, or at least representative democracy. In representative democracy the rights of the minority give way to the rights of the majority. Independence is a way around that problem, giving people the maximum amount of independence where it does no harm to others (Warburton, 2001:43-61).

3. The Catholic Church: an Independent Organisation?

Can the Czech Catholic Church be considered an independent organisation? To what extent does it fit the first of civil society's ideal typical features: independence from the state? The most immediate point of comparison is with the position of the church under Communism, and in this respect there has been much space for an expansion in religious freedoms.

We have taken the Bishops' land, We have taken their press. I have put commissioners into every consistory. I have closed all the church schools. Now we are gradually

taking away their churches. We are imprisoning priests. And now...another important measure - a new wage law for priests ... We will decide who will get paid and under what conditions. (Lidove Democracie, 16 March, 1992)

This announcement in September 1949 by the General Secretary of the Czechoslovakian Communist Party, Rudolph Slansky, illustrates the conditions under which religious organisations existed until the collapse of Soviet power some forty years later. With the exception of Albania and Russia, the Catholic Church in Czechoslovakia suffered the greatest degree of repression in the Soviet Union and Eastern Europe. While not officially banned under Communism, the churches' subjugation by the authorities was so wholly efficient as to render the church virtually non-existent. Monasteries, convents, churches, and church land were nationalised by the State. Church schools were closed and Catholics in the education system and in the workplace were discriminated against. More than 15,000 members of the religious orders were sent to prisons or camps. Bishops and priests were required to apply for state permission to practice, and this was regularly refused. The church had no economic independence, and all wages to priests and bishops were paid by the state. The majority of Bishopricks remained empty and it was virtually impossible to get a place in a seminary (Ramet, 1990; Cuhra, 1999; Clark, 1996).

The revolutionary events of 1989 brought an immediate increase in religious independence. In addition to the individual rights to belief and practice guaranteed in the Constitution, Act Nr. 308 was introduced in 1991, setting out the position of the churches and religious organisations. This act ensured the extrication of the state from many of the day to day affairs of the church. It abolished the State Office for Religious Affairs which was established in 1949 to supervise the activities of religious organisations. In its place, the Act

guaranteed that “Churches and religious societies administer their own affairs, in particular they establish their bodies, appoint their priests, and establish religious orders and other church institutions, independent from the organs of the state.” The law entitled churches to “have their own press and publishing houses and printing offices” and to “set up and operate their own health-care facilities, social care facilities and also participate in the provision of such services in the government run facilities.” Finally, the Law allowed for the establishment of church schools, the right, with parental agreement, to teach religion in state schools, and the right to provide services to the religious in military establishments.¹⁵ The 1991 Law has recently been replaced by Law Nr. 3/2002 with the intention of liberalising the process of registration for churches and consolidating the provisions in the earlier act.¹⁶

¹⁵ See Article 5, 6, and 9 of ‘The Act on the freedom of religious faith and the position of churches and religious societies Nr. 308 of 4 July 1991.’ The act can be viewed at <http://spcp.prf.cuni.cz/aj/308-91en.htm>.

¹⁶ These recent legal developments have proved unstable. The 2002 Law has sparked a new series of controversies. The most problematic aspect for the Catholic Church is that “under this law churches are not allowed to establish philanthropic organizations and charities as an integral part of the church, but have to register them as separate civic enterprises.” Karel Nowak, President of the Seventh-day Adventist Church in the Czech Republic, cited at http://gbgm-umc.org/mission_Programs/ecg/2.19/czech/latest_news.htm. It is unclear what the implications of this are for the traditional areas of church life, but there is sufficient ambiguity for the bill to have had substantial opposition. It was rejected by a majority of the Senate, President Havel attempted a veto of the bill, and on its final reading three of the four main opposition parties, the KDU-CSL, the Freedom Union, and the Communists voted against it. The Czech Ecumenical Council and the Catholic Church have lodged a joint appeal for a review of the legislation with the Constitutional Court. The Churches and others also oppose the Bill on the grounds that the registration system continues to discriminate against smaller religious groups. see ‘Act Nr.3/2002 Coll on freedom of religious confession and the position of churches and religious societies and on the changes of some legal acts (Law on churches and religious societies’ at <http://spcp.prf.cuni.cz/aj/3-02en.htm>.

While these changes have dramatically increased church independence, the significance of the increase is diminished by the continuing failure of successive governments to reform the economic relationship between church and state. This relationship remains governed by the Communist 1949 law which placed in the hands of the state the management of the church economy. Under this law priests and bishops are effectively regarded as civil servants, and receive their salary from the state. Both Church and Government agree on the need to reform the relationship, but the matter is complicated by an agreement that the ending of direct state financing should happen in tandem with the return of church property confiscated in 1949. In 1992 a draft bill to return property to the Catholic Church failed in Parliament. Ever since, the issue has been the source of dispute between the government and the Catholic Church, and today the Catholic Church continues to press for restitution.¹⁷

From the view point of the church, the failure to secure economic independence is both practical and symbolic. Clerical salaries are small and well below the national average wage. Furthermore, salaries to bishops and priests, technically regarded as state employees, have remained the same while salaries to other state employees have increased. Important as these matters are, the issue of state financing is more than one of wages. The Church's lack of funds limits its ability to pursue its religious activities. In this context, a crucial source of potential funding is the church property

¹⁷ On the recommendation of Vaclav Klaus, the then Federation's Minister of Finance, church claims were removed from the draft legislation. Klaus announced his support for church restitutions in principle, but argued that the introduction of legislation for the return of church property should be done in conjunction with the ending of state funding to the churches. The general restitution laws passed so far contain blocking articles intended to prevent the state from selling to third parties, properties which the churches claim as their own.

confiscated by the Communist regime. “We would like to found schools and charitable institutions” explained Bishop Hrdlicka “the church wants to fulfil its mission and wants to have title at least to what belongs to the church” (interview, 1998). Bishop Lobkowitz argued that:

The church is completely free, yet there are some problems - the economic support. If a building needs to be repaired the church is required to pay for it as a foundation. The church in these instances finds it has no sources to undertake any large reparations. In the case of restitution I could sell one hectare of forest and then would have some money I could manage the property with. I could do then my own economy. (interview, 1998)

Finally, restitution is important not only because of the possibilities it creates for increasing church revenue, but also because it would provide an *independent* source of income. The former regime’s insistence on being the sole source of finance for the church was an undisguised strategy of control, and this very recent history has made the church wary of any arrangement where it is dependent on the state for funding. The restitutions are important, argues Cardinal Vlk, because “in the past, the church has learned how dangerous it is to depend on the State, on the political power... We want to be free. *So we have to find our own finances*” (Esras, 1993j, emphasis mine).

3.1 The Failure of Church Economic Independence.

The 1991 law on the position of churches failed to address the financial relationship between church and state. Ten years later the commissions established to draft the replacement law Act Nr.

3/2002 met with a similar fate.¹⁸ Not only does this failure contrast with the success of Poland, Slovakia, and Hungary in resolving these issues, but it also contrasts with the optimism expressed at the beginning of the democratic period that this matter would be swiftly resolved. Indeed, the atmosphere within the country's first post-Communist Government was sufficiently positive for commentators to note that "it is expected that by the end of 1992, prior to the implementation of tax reforms in the country, the issue of economic relations between the State and the churches will be settled" (Martin, 1991:17)

4. Explaining the Obstacles to the Restitution of Church Property

Prior to 1989, the Communist state owned approximately 96 per cent of real estate in Czechoslovakia. The new democratic regime that came to power in 1989 rapidly introduced three restitution laws between October 1991 and May 1991 which returned businesses, industries, apartment buildings, houses, and land, to former owners. Yet, more than a decade after the collapse of Communism, the Catholic Church continues to press for the restitution of its property, and remains dependent on the state for its economic survival. How was it possible that the new democratic regime so rapidly restituted, or privatised, the bulk of its property, and yet failed to reconstitute the property that belonged to the Catholic Church?¹⁹

¹⁸ This is in spite of the fact that one of the central intentions of the Commissions was to address this issue. But eventually it was agreed to postpone the financial discussions to a later date because of the difficulties in coming to an agreement on an appropriate model of financing.

¹⁹ Identifying an explanation for the conflict immediately encounters a number of obstacles, not the least of which is the paucity of academic articles on the topic of restitution in general. Kozminski (1997) notes the lack of research on the topic. See

Claus Offe's explanation for the adoption of restitution laws is firmly couched in assumptions about the causal force of justice (Offe, 1992). He argues:

It is *evident* that the actors of the old regime have committed acts which call for sanctions under the new regime. A general amnesty for these actors and acts would not appear acceptable to the new political elites, and it would be vehemently protested by the mass of the people. (Offe, 1992:195; emphasis mine)

As such, Offe sees the measures of "deprivation, retribution, (and) restitution," adopted by political elites as ones aimed at "coming to terms with the past and achieving the political unity and reconciliation of society"²⁰ (1992:196). Evident in these remarks is a belief that a consensus on historical wrongs and how to right them is behind the return of expropriated property. However, Offe offers no evidence to support his contention that some desire for justice was the prime mover behind decisions to retribute. This contention, I suggest, needs to be tempered in light of the fact that the restitution laws drawn up by political elites across Eastern Europe, explicitly excluded as many of those who had an equally valid claim to justice as those who *were* successfully covered by the legislation. Indeed,

however, Burger, (1993) and Cepl, (1993). As the restitution laws in the Czech Republic have returned vast quantities of farmland, forests, lakes, castles, factories, flats, and houses to their original owners, the apparent lack of interest in the topic is striking, given the potential implications the laws have for a variety of areas including the organization of agriculture, the farming of carp, the changing class structure, state housing and landlord tenant relations, to mention just a few.

²⁰ Offe's analysis is similar to Bruce Ackerman's in 'The Future of Liberal Revolution' (1992). Ackerman makes a distinction between what he describes as 'liberal revolutionaries' and 'total revolutionaries.' Unlike their 1917 (or 1789) predecessors who he contends draw a clear line between the past and the future, today's (1989) 'liberal revolutionaries' open their ears to the past, acknowledge the injustices of the past and unavoidably open themselves up to a welter of demands to right these wrongs.

some of the excluded were groups who could arguably claim to have suffered most under the previous regime, in particular Jewish organisations who, under the successive authorities of both Nazism and Communism, were stripped of their collective property.

Yet, despite Offe's failure to address cases of unsuccessful claims to restitution, his discussion ends with the qualification that efforts at "backward looking justice" will be tempered by considerations of "forward looking justice", a qualification that predicts just the kind of criticism offered above. The importance of the idea of "forward looking justice" is given all the more support by its resonance with the discourse of restitution that emerged in the Czech Republic some years after Offe first made these remarks. Here, ideas about justice within limits, or pragmatic justice, were offered by political elites in the Czech Republic to explain the limitations in the administration of restitution.

4.1 Justice within Limits

In the Czech Republic, considerations of 'forward looking justice' serve as the legitimating factor for the limits placed on restitution. In the case of the Catholic Church, politicians contend that the inability of religious elites to recognise these constraints accounts for the continuing conflict over church property claims. In brief, it is argued, politicians are pragmatic and the church is not. The church does not recognise the impossibility of a complete or unconditional rectification of past injustice. The church does not understand that although politicians want to be just and fair these considerations have to be tempered by the necessity to be practical, by the necessity to limit restitution. "[It] is a very complicated issue" explained Klaus's chief advisor Jiri Weigl, and he sensibly added: "You can't return the

history back ... you will end up in more and more competing claims, and you will never stop" (interview, 2002).

The limits to restitution are as follows. The three restitution laws introduced between October 1991 and May 1991 covered only those people who had their property confiscated *after* the Communist putsch in 1948. The laws also applied only to *individuals* and, finally, they applied *only* to individuals who resided in the Czech Republic. These limits neatly excluded the churches on the grounds that they were organisations and not individuals, the Jewish Community because it had its property confiscated before 1948, émigrés because they no longer lived in the Czech Republic, and finally the Sudeten Germans, expelled from Czechoslovakia in 1945.

These legal limits prevented the righting of all past wrongs. Nevertheless, there were grounds on which to regard them as just, because many were enacted in the interests of competing moral claims. For example, strong democratic grounds existed for refusing to restore property taken before 1948. The government before 1948 was democratically elected, with the Communist coup only taking place in February of that year. It seemed justifiable, then, that the church, along with other organisations and individuals be prevented from claiming back property before 1948.

Politicians argue that the Catholic Church's refusal to recognise these limits is the cause to continued conflict over restitution. Miroslav Ransdorf, the Vice Chair of the Communist Party and its leading intellectual light, commented:

These property claims, it was very ridiculous. I was here in the Federal Assembly and many of the claims of the Catholic Church were ridiculous because they went beyond the confiscation made by Emperor Josef the II. (interview, 1998)

And Miroslava Nemcova, the ODS Shadow Minister for Culture, suggested a similar intransigence on the part of the church:

It is absolutely impossible to return to some original point, some just, righteous point, which would be able to atone for what happened ... it is possible to atone for only *some* property injustice...here I see one of the origins of the conflict. There can be only returned just a part [of the property], because the state is not able to return the church nor *anybody* else, to the original state. All this creates the conflict... It is not possible to return to *everybody everything*. (interview, 1998)

However, if the church's refusal to recognise any such limits to restitution is supposedly the source of the conflict, there is little evidence for this in the views of Czech Bishops. When I asked the respondents in my interviews if they sought to claim back property prior to 1948, they were, (wearily) adamant, that this was not the case. Their answers variously were: Bishop Maly: "(No) It's only a matter that the church would have a chance to choose from what was taken away in 1948. It's clear that the church doesn't want to receive back all property; only certain buildings, not all meadows, not all forests, not all ponds, only what it thinks is the best to give it good financial sources for social and educational activities" (interview, 1998). Bishop Lobkowicz: "(No) There was always a limit and we agreed with this - 1948." Fr. Herman: "For us the optimal model would be not to restitute everything. It's not possible, we know that." And later in the interview, he remarked again "We know that we must be realists. Before the February Communist putsch of 1948, the church in the Czech Republic had in their hands about three and a half thousand buildings and fields and we will restitute, claim back, *only what we really need* for our service. It's about 600 buildings not everything" (interview, 1998).

Other sources confirm an appreciation on the part of the Catholic Church for these limits. As early as 1991, Radio Free Europe reported an announcement from the Czechoslovak Bishops' Conference that it hoped that the Federal Assembly would "not return to us all [former] property" (Martin, 1991:18, emphasis mine). Radio Free Europe went on to add "it appears....the Roman Catholic Church wants only enough property to be returned to it to cover the costs of its pastoral and social work." Material from the Esras archives support the Radio Free Europe view. Bishop Duka, the Church's spokesperson on restitution commented that,

In the political parties and in parts of the church, views of the restitution question vary greatly, [however] there is a basic consensus shared by the Bishop's Conference, the Conference of Heads of Religious Orders, and the Vatican that integral, total restitution of church property is politically and socially impossible, and legally very complicated. (Esras, 1993b)²¹

By 1996, the Church's position remained unchanged. In a rare interview in the Czech newspaper *Lidove Noviny*, the leader of Catholics in the Czech Republic, Cardinal Vlk took the opportunity to affirm:

From 3,300 houses.....we require about 800. Also we require about 240,000 hectares of the fields and forests. In our biggest interests are mostly forests which would make a traditionally good economical base for the

²¹ Bishop Duka was then Fr. Duka, Vice President of the International Conference of Heads of Religious Orders. 1993, and one of the members of the triumvirate elected to conduct negotiations with the government. (Esras Archives, 1993b.) It was a position again highlighted in 1993 by *The Tablet* who reported a statement by the Czech Cardinal Vlk making clear that the church would only claim property that was seized *under* Communism and that in addition, most property would continue to be used for educational and charitable needs. (*The Tablet*: 27 February, 1993)

church. We do not require financial compensation for the property which was nationalised during Communism for the public use, for instance to build a high-way or houses. (Lidove Noviny, 1 February, 1996).

In my own interviews, I asked Jaromir Talir, the ex-Minister of Culture, if he felt the Church could be doing anything further to help in the resolution of the issue. He commented, "I do not think so. They said a couple of times that they would be happy if the state would return this property and they would accept to get back maybe a part of it which they would list" (interview, 1998).

Notwithstanding these views, newspaper articles and politicians continue to state confidently and with no supporting evidence that the church's inability to recognise the cut off date of 1948 is the source of the problem. "It is the same as if we would want to return the USA to Indians, that's why we cannot be asking for full restitution", complained the well known journalist Vaclav Zak in a leading Czech daily. (Pravo, 16 Jan, 1997). It was this general air of confusion that led a frustrated Vaclav Benda to complain that,

If you look at the resolution of the executive of the Civic Democratic Party (ODS)..you find stated that nothing should be returned to the church which had been confiscated *before* 25 February 1948, but that cut-off date has *never* been questioned by anybody and certainly it has been emphasised in the proposal submitted to the Government by the church - so there is no dispute on this point. (Esras, 1993l).

When I pressed Nemcova on the point she admitted, "OK, they do not want everything, but they want that part (of the property) that may appear to the state impossible to return in this form and the state suggests the return of different parts" (interview, 1998). One example she gave is the fact that some buildings are now used by

other institutions such as schools. Again, akin to Claus Offe's notion of forward-looking justice, Nemcova pointed out that, "..because some [buildings] have served for long for a different purpose ... to retribute these would make more damage if it would be returned" (interview, 1998). A similar point was made by Karel Floss, the Social Democratic Senator who argued, "it is difficult to return everything, because the most important thing is for example buildings and they now serve as important institutions" (interview, 2001).

Nemcova's concern with the question of what new injustice may be caused by seeking to correct old injustices is highly pertinent. Policy makers in the Czech Republic incorporated a range of qualifications to the general restitution laws in an attempt to forestall any unintended consequences. One example will suffice: where state flats were returned to their former owners, new owners were prevented from raising prices on rent- controlled property. The principle of 'forward looking justice' is clearly an important one; yet, it still fails to explain the prevailing resistance to the return of church property. The suggestion that the problem lies with a church essentially too greedy or myopic is difficult to square with the empirical record which indicates otherwise. Indeed, the Catholic Church has been a persistent and distinctive voice in arguing that property should come with responsibility, an increasingly novel idea in today's Czech Republic. (see Czech Bishops Conference, 2000).²² And in the case of its own claims to property, it has keenly pursued

²² For example, the Bishops write "Private ownership, which respects the rule of law as a fundamental constraint on the creation of profit...and which is socially responsible ...Only such private ownership is able to make room for real entrepreneurship, creativity and the application of people's talents for the necessary modernization of our economy. The still prevailing negative perception of the institution of 'private ownership as theft' (Proudhon) needs to be reversed if economic transformation is to be successfully completed. Ownership is responsibility and service; it has been entrusted to us." (Czech Bishops Conference, 2002:Section 16)

the idea of 'forward looking justice', taking every opportunity to address competing claims to justice. For example, the church has made clear that it wants to claim only property that is in the hands of the state and the municipal authorities, and not property that is now in the hands of private individuals. Bishop Duka argued:

It is a question of *co-operation* and of *justice*. It seems to me quite possible, realistic, to restore to the church that part of her property which is now held by the state and for the church to renounce that part of her [former] property which is in the hands of physical persons. (Esras, 1993b)²³

Similarly Vaclav Benda pointed out that,

The ODS (Civic Democratic Party) state that restitutions should concern *only* that property which is at present held by the state. We are in complete agreement with it because we too, and also the church in the proposal (submitted to Government), exclude any restitution of property currently owned by physical persons, companies with foreign participation, and a series of other categories of owners - a principle that has been written into other restitution laws. (Esras, 1993l)

The church has also made clear its willingness to accommodate the present incumbents of buildings that it claims; the main incumbent is the state. Daniel Herman, The Catholic Church's press secretary told the Prague Post that if real estate was returned to them:

Many properties would retain their current uses as

²³ At the time of this interview, Bishop Duka was Fr. Duka, and Vice President of the International Conference of Heads of Religious Orders. He was one of the triumvirate appointed by the church to negotiate on restitutions with the government. (Esras, 1993b) Duka is responding to a question by the Esras interview team asking if he agreed with the Bishops' demand that land and forests should be returned to the Catholic Church.

commercial or state office buildings or cultural monuments. The difference would be that the state or a private company would be paying rent. Such a business relationship is superior to the current system of subsidies from the state...The church would keep buildings such as historic churches and monasteries open as cultural monuments. For other buildings such as schools and hospitals, the church would run them as charities. (The Prague Post, 25 August, 1998)

In conclusion, it appears that tensions between the claims of forward looking justice *vis-à-vis* backward looking justice are inadequate for the task of explaining the continuing conflict between church and state over restitution. *Both* church and state government ostensibly agree to the principle of forward looking justice, and yet within the constraints of that principle, both parties have different ideas as to how restitution should proceed. If justice is, as Offe seems to suggest, a useful prism through which to analyse restitution, it needs, at the minimum, to be thought of in terms of the *politics* of justice.²⁴

4.2 The Politics of Justice

The importance of conceiving of justice as strained through politics is highlighted by a consideration of Bruce Ackerman's remarks. While one cannot deny his sage comment that "the better part of wisdom is

²⁴ Ellen Comisso's excellent case study of restitution in Hungary is primarily concerned with the *politics* of restitution and in that regard is by far the most successful account to date of what factors are important in deciding who got what, where, when and how under the restitution laws. Her article however, like the others, confines itself to the politics of those who had already successfully staked a claim in the restitution process, namely, *individuals* and foregoes an analysis of the politics of *exclusion*, in the main of *organizations*, religious or otherwise. (Comisso, 1995)

to keep the demand for corrective justice under control,” (1992:4), his analysis would have been of more use if he had focused on the factors that militate against the adoption of this seemingly simple panacea. Who shall be the forces that limit the demand for restitutive justice, and who should decide what those limits are were questions that dogged the new Latin American democracies and now too Eastern Europe. The prescriptive element of Ackerman’s work is emphasised over what could have been a focus on parliamentary institutions, constitutional courts, standing committees, and the way in which the questions surrounding restitution worked themselves out within the confines of those arenas.

In the Czech Republic, the heated arguments among the government coalition over the return of confiscated property go to emphasise the importance of the political process. The need to combine an analysis of the *justice* of restitution with the *politics* of restitution is indicated most clearly in the Jewish case, which shows that a political coalition that was sufficiently strong was capable of sweeping away the most trenchant opposition to restitution. After the Second World War, the Edvard Benes Government introduced legislation allowing for the return of Jewish Property expropriated under the Nazi occupation. The process however was very far from complete when in 1948 the Communists seized power, stopped all restitutions, and re-confiscated any property that had managed to be returned in the intervening period. In 1993, a bill was introduced by members of the Civic Democratic Alliance (ODA) proposing that the process, begun by Benes and reversed by the Communists, of returning property belonging to the Jewish Community, should now be continued. The response of Klaus’s Civic Democratic Party (ODS) was obstinate refusal. To breach the “golden date” of February 1948 would, they argued, clear the way for similar claims by the Sudeten Germans. (Mlada Fronta Dnes, 4 March 1993). Additionally, the

party was also opposed to returning property that was now in the hands of the municipalities; the vast amount of Jewish property was of this kind. The issue created enormous tension among the Government's coalition partners. They argued that the Municipalities had no moral right to keep the property. "You can't replace everything with money" was the response to ODS proposals to provide compensation in lieu of property held by regional authorities.²⁵ A second attempt by the main party in government to pass similar legislation was met with the response that it confirmed the "Bolshevik and fascist" seizure of Jewish property. (13 April 1994). Finally, in April 1994, after months of political wrangling, the Czech Parliament voted an amendment to the Law on Extra Judicial Restitutions. The Amendment allowed for Jewish communities to claim back property that had been seized by the Nazis, including the property presently held by the Municipalities.(The Prague Post, 4 May, 1993). The ODS had backed down on what had been portrayed as two insuperable obstacles: property held by authorities other than the state, and property confiscated before 1948.

The Jewish restitution case is important because it demonstrates that 'pragmatic considerations' in themselves cannot limit the political agenda. Ultimately someone has to *successfully* make the argument that these pragmatic concerns are sufficiently large to matter. In the case of property belonging to Jewish communities, what came to be regarded as an overwhelming moral imperative to return this property demolished the arguments of the majority party in Government that it would be impractical to attempt this restitution. Certainly, the difficulties in the Jewish case were

²⁵ Miloslav Vyborny (KDU-CSL) in Parliament speaking on the opposition to the Government proposal (cited in The Prague Post, 23 February, 1993). Deputies from the three junior coalition parties stormed out of the voting chamber. (Reuters Eastern Europe, 20 March 1994).

many, but it was a question of politics, of political will, as to whether or not elites were willing to risk the unintended consequences of making exceptions to the 1948 border.

If politics needs to be given at least an equal emphasis as justice in the analysis of Jewish restitution, what then of the cases of restitution to individuals? Here, there was little discussion or controversy over the laws that returned property to previous owners. Restitution to individuals was in practice a messy affair involving many of the issues of 'forward looking justice' and legal or technical difficulties eagerly flagged up by politicians in the case of Jewish or Catholic property.²⁶ Yet, despite these difficulties, no party in Government ever suggested that these were sufficient grounds to backtrack on the promise to reconstitute private property to individuals. Indeed, the greater the difficulties that emerged, the more efforts were expended on resolving them. When public concern was expressed over the delays caused by competing legal claims, Kmentova, Head of the Government's Restitution Department, announced that "nevertheless, everyone must have the right to get back what was originally theirs." (Prague Post, 16 February 1994).

This commitment to restoring the property of individuals is not readily explained by what Claus Offe describes as the desire to achieve "the reconciliation of society" (Offe, 1992:195). Offe implies that the restitution agenda and other acts such as lustration were drawn up across Eastern Europe by politicians in tune with the

²⁶ Sophia Coudenove in the Prague Post discusses the difficulties involved in restituting property to individuals. The lack of clear records establishing ownership and the unintended consequences of a minimum application period initially designed to hurry up the process are just two of the many complications that emerged in the restitution process. (The Prague Post, 16 February, 1994). Many of the Czech papers carry stories of interminable court cases over competing claims, and the introduction of protective legislation to deal with the rights of present incumbents were ongoing.

demands of the public.²⁷ Yet, Offe gives no supporting evidence for this view, and the political agenda in the immediate aftermath of Communism certainly goes against this interpretation. The logic of Offe's argument would suggest that anger about past injustices might be expected to have been at a height in the initial stages of democracy. However, a glance at the programs of political parties on the eve of the Czechoslovakia's 1990 elections shows that proposals for restitution and lustration (vetting) were not included in the program of *any* political party. Furthermore, where privatisation is mentioned in the programs it is done with the acknowledgement of the right to existence of other forms of ownership such as co-operatives (see Krejci, 1995: 279-280).

Indeed, the evidence is more consistent with a view that restitution to individuals had less to do with justice than it had with the economic strategy of ODS - the lead party in Government. All Government parties unquestioningly accepted the ODS view that the successful transition to a functioning market economy required the privatisation of the means of production; 95% of which was in the hands of the state. Restitution to individuals was one method of privatisation and a means of creating a middle class that could, it was hoped, carry the rapid transformation to a market economy.

The question of émigrés and Sudeten Germans is different again. Whatever economic, political, or moral capital was to be gained from restitutions to individuals or to the Jewish communities, in the case of émigrés there are no major groups that can

²⁷ He writes that "a general amnesty for these actors and acts would not appear acceptable to the new political elites, and it would be vehemently protested by the mass of the people" (Offe, 1992:195).

successfully make the case for restitution, and none either in the case of the Sudeten Germans.²⁸

In sum, the concept of justice is something of a black box that needs to be opened up for a fuller analysis of the factors that militate either in favour, or against, the restitution of property to individuals or groups. The argument that it was *just* to return property was politically successful in the case of the Jewish Community. Yet, with the Sudeten Germans, who in theory equally have a claim to justice, the argument remains for the moment something of a political non-runner. In the case of the Catholic Church the demands for justice on the part of religious elites have failed miserably; a failure that Offe's propositions regarding 'forward looking justice' do not adequately account for. Other factors are perhaps at play.

4.3 Public Opinion

In the light of a decade of failure to resolve the linked questions of economic independence and church restitutions, explanations have tended to emphasise the anti-Catholicism of the Czech public. This antipathy is argued to be the expression of either the historical anti-Catholicism engendered under the Austro-Hungarian Empire or the more recent history of anti-church policies under Communism. These views are prevalent among not only academics but also key protagonists in the dispute over restitution. Jan Misovic, for example, argues that the lack of support for restitution is a consequence of the public's "historical experience of Catholic activities" (Misovic, 1999:316). Cardinal Vlk explains ".it is the heritage of the past ...Communism somehow remains in us and a certain anti-clericalism is still here even after six years". (Reuters

²⁸ Czech-American organizations and other emigre groups in the US have appealed to Czech courts against the Government's decision and have lobbied congress.

Eastern Europe, 16 August 1996). Karel Floss of the Social Democrats explained, “after the revolution the people weren’t prepared for the restitution. An animosity developed between the church and the people as a whole, not only the government. No government wanted to do this quickly.” (interview, 2001). And the Vice Chair of the Communist Party commenting on the ex-Prime Minister’s opposition to church restitution remarks, “Klaus blocked this [restitution] for many years.... because he is very sensible, *the majority of the population in the Czech Republic are against the property claims of the Catholic Church*” (interview, 1998, emphasis mine).

The argument that church restitution has failed because ‘the public’ are against it should, however, be regarded with care. Opinion polls carried out since 1991 show an average of 50 per cent or less opposed to church restitution, with this figure falling to 36 per cent by 1996.²⁹ Yet importantly, the *strength* of opinion either in favour or against restitution is something that is not represented in the polls. It is likely, however, that only a minority of the public have any strong opinions on restitution, for it is difficult to find evidence of much interest in the matter outside the rather narrow confines of the church or the parliamentary arena. Indeed, the lack of interest has encouraged a number of politically opposed journalists to agree on two issues; that the controversy over the restitution of church property “has attracted scant public attention” (Oberman and Mates,

²⁹ Polls by the Institute of Public Opinion Research August 1991 and February 1993. Another poll in 1996, again by the Institute of Public Opinion Research (IVVM), showed that a majority of respondents were in favour of restitution. Less than half were opposed to any church restitution. 21 per cent supported partial restitution. 17 per cent favored restitutions of all post-1948 seizures and another seven per cent favoured restitutions dating back to the First Republic.

1993: 46),³⁰ and that while “the case about ownership...is legally very difficult ... people are not going to talk about it in pubs (we mean voters)” (Kauza Vik, Nevitelny Pes:30 July, 1996).

Furthermore, the negative impact of Communism on support for the church may very well be double-edged. Communism could, in fact, be said to have partly strengthened the Catholic Church because it gave the Church a much-needed opportunity to advance itself as a defender of the nation. Under the Hapsburgs, forced catholicisation proceeded hand-in-hand with germanisation, and there has thus always been a feeling in the Czech lands that Catholicism, despite its being the majority religion, is also anti-national. Yet, during Communism a number of key Catholic dissidents played an active role in the opposition. Frantisek Tomasek, Vaclav Maly and Vaclav Benda are just some of the figures who became notable for the enormous respect they generated among believer and non-believer alike, allowing the reputable Radio Free Europe to remark that after 1989 “...the Catholic Church could draw on a deep well of goodwill among Czechs and was in a strong position to re-establish itself immediately after the fall of Communism... many people expected a reconstituted church to play a significant role in both social and political life” (Kettle, 1995a). Today, key figures such as Vaclav Maly and Tomas Halik continue to inspire much public affection.³¹

³⁰ Jan Oberman and Pavel Mates beginning a commentary in one of the (generally pro-restitution) Radio Free Europe reports.

³¹ Despite support for key religious figures, general trends following the collapse of Communism show a declining interest in institutionalised Catholicism. In line with his general argument, Misovic attributes this decline to the church’s pursuit of restitution. The recent census figures certainly support the argument of a decline, showing a drop in the numbers of those claiming membership of the Catholic Church from 39 per cent in early 1991 to just over 26 per cent in March 2001. Dramatic as the drop is, the argument that it can be explained by reference to restitution is difficult to reconcile with the drop in support for other churches *not* involved in restitution claims. Indeed the recent census shows a

But if church restitution has failed to ignite great passion within the public domain, this is not the case in the parliamentary arena. Since 1990 the issue has been the subject of heated debate among professional politicians and was one factor in the collapse of the coalition Government in 1997.³² As with perceptions of the public's attitude to restitution, the politicians' opposition, is argued to be anti-Catholic. Bishop Maly's comment echoes that of many in the Bishops Conference:

In the minds of the politicians there are prejudices and worries that the church, if materially secure, would become a powerful institution, which would compete with the political parties...but it is nonsense. Our church doesn't wish to renew the feudal state from the past - we are living at the end of the twentieth century and the only goal of the church is to have certain financial sources but not to be again a very powerful institution which is in competition with political parties. (interview,

slightly greater drop in support for those churches not involved in the restitution controversies. The figures are a drop in membership of 32.6 per cent for the Catholic Church, 32.8 per cent for the Evangelical Church of Czech Brethren, and 45.9 per cent for the Hussite Church. Figures at the website of the Czech Statistical Office, www.czco.cz

³² The fact that politicians may place far greater emphasis on an issue than the public is not unusual. Here, Jean Cohen and Andrew Arato's account of the elite model of democracy captures well contemporary Czech political practice. (Cohen and Arato, 1992). On the elite view "there is no pretense.. that voters either set the political agenda or make political decisions; they neither generate issues nor choose policies. Rather, leaders (political parties) aggregate interests and decide which are to become politically salient. Moreover they select issues and structure public opinion" (5) "On this model societal interests cannot be represented. Neither public opinion nor raw individual interests find representation in the political system" (608). The break-up of Czechoslovakia in December 1992 is a case in point. The premiers of Slovakia and Czechia, Meciar and Klaus, refused to hold a referendum on the dissolution of the Czechoslovakian State amid clear calls for one and in the face of numerous polls showing majority preferences for an alternative solution. (Krejci, 1994:271-272.)

1998)

There are indeed grounds to support the contention that fears about Catholicism are behind the political failure to reconstitute property. For example, Jaromir Talir of KDU-CSL, argued: “[It] is the problem of the view of the Czech political parties on the Church. If you are talking to representatives of other political parties; CSSD and ODS, you can see that their opinion is that the Church should be poor and they should not own anything” (interview, 1998). And Miloslav Ransdorf the vice Chair of the Communist Party, justifying the Communist opposition to restitution, explained: “We are not against financing the activities of churches, we are against the creation of an ulterior economic basis for political clericalism in the Czech Republic” (interview, 1998).

5. Conclusion: The Politics of Restitution

The argument that justice, or public opinion, is the major obstacle to church restitutions, is difficult to sustain. However, the strength of *politicians'* opinion is perhaps, a weightier factor. If it is the case that the failure to restore church property lies in the anti-Catholic attitudes of Czech politicians, rather than the Czech public, the test is to see if these attitudes have been translated into action, and if so where this has happened. The next chapter considers the extent to which politicians were guided by firm views on religious restitutions, and the extent to which their actions were mitigated by other concerns.

Chapter Three

The Politics of Economic Freedom

1. Introduction

The previous chapter ended with the proposition that the strength of anti-restitution opinion among Czech parliamentarians may be an explanation for the church's failure to recover its property. The aim of this chapter is to examine the extent to which that argument is consistent with the actual course of events surrounding restitution. The chapter concentrates on the question of whether politicians' beliefs about restitution were a guide to their actions or whether other more important factors were at play. There is no single account of the politics of church restitutions. The description of events in this chapter is necessarily a reconstruction of the position of the various parliamentary parties throughout the course of the restitution controversy. The reconstruction relies on newspaper articles and reports. The final part of the chapter is an analysis of these events.

The position of the Czech parliamentary parties on this issue varied over time but two broad political camps can be identified. On the one side, opposed to the return of church property, was an alliance made up of the right wing Civic Democratic Party (ODS), supported by the two left parties, the Czech Social Democratic Party (CSSD) and the Communist Party of Bohemia and Moravia (KSCM). The final member of the anti-restitution group was a late-comer to the political scene, the neo-fascist Association for the Republic-Czechoslovak Republican Party (SPR). The pro-restitution side in the church debate was represented by three main groups: the small

Christian Democratic Party (KDS), the larger Christian Democratic Union - Czechoslovakian People's Party (KDU-CSL) and, at a subsequent stage, the Civic Democratic Alliance (ODA).³³

2. June 1990 - June 1992

The first post-Communist elections in Czechoslovakia were held in June 1990 and resulted in a win of 68 seats for Civic Forum, 15 for the Communist Party, and 9 for the Christian-Democratic Union – Czechoslovakian People's Party (KDU-CSL). (Rose, Munro and Mackie, 1998). In the following year a number of laws were passed returning properties seized from the Communists to their former owners. The third restitution law, passed in May 1991, had, in its draft stage, provided for the return of land to the church. Finally, however, provisions for the churches were removed from the legislation, on the recommendation of Vaclav Klaus, the Federation's then Minister of Finance. While Klaus announced his support in principle for church restitutions, at the same time he argued that the introduction of legislation for the return of church property should be done in conjunction with the ending of state funding of organised religion (Martin, 1991; Esras 1993). The issue of church restitutions was therefore separated from the general restitution legislation with the promise that it would be dealt with at a later stage.

³³ ODS - Obcanska Demokraticka Strana (Civic Democratic Party)
CSSD - Ceska Strana Socialne Demockraticka (Czech Democratic Socialist Party)
KSCM - Komunisticka Strana Cech a Moravy (The Communist Party of Bohemia and Moravia)
SPR - RSC - Sdruzeni Pro Republiku - Republikanska Strana Ceskoslovenska (Association for the Republic - the Czechoslovak Republican Party)
KDS - Krestanskodemokraticka Strana (Christian Democratic Party)
KDU-CSL - Krestanska a Demokraticka Unie - Ceskoslovenska Strana Lidova (Christian Democratic Union-Czechoslovakian People's Party)
ODA - Obcanska Demokraticka Alliance (Civic Democratic Alliance)

Nevertheless, the Government made no attempt to address the outstanding matter of restitution to the churches. Frustrated with the lack of progress, some sixty deputies from various parties came together to draft legislation in June 1991 and March 1992. The legislation proposed that all property taken from religious organisations after 25th February 1948 would be returned. The draft legislation received cross party support, and despite opposition from elements of the Government, delegates in support of the proposed legislation managed to guide it through the appropriate committee stages. Presenting the bill in Parliament, Motycka, a representative from the KDU-CSL reminded the Assembly and the Government of their repeated promises to solve the problem of restitutions of church property. He argued that the viewpoint of the Federal Government,

Contradicts with the Government's basic declarations on the transformation of the economy and the creation of a democratic environment. The government has little intention of re-instating a real owner to the church property, it wants to do it just for show while in reality it would reaffirm the state administration the same way the totalitarian Communist regime did at its beginning (Motycka, cited in Lidove Democracie, 16 March, 1992).

On the 15th of April 1992, the draft law on the return of property to the Catholic Church was rejected by the Czechoslovak Federal Assembly. The draft legislation had gained a majority of support in the House of People but failed in the House of Nations where a coalition of Communists, Social-democrats, and neo-liberals successfully argued that if land was restituted to the church this

could damage the collective farms created under Communism. (Martin, 1991:62).³⁴

3. June 1992 - June 1996

In 1992, the Civic Democratic Party (ODS) and the Christian Democratic Party (KDS) formed an electoral alliance. This alliance won the most votes in the June 1992 elections, 76 seats in the 200 seat Czech Parliament. Lacking a majority, a coalition Government was formed with Josef Lux's KDU-CSL (15 seats) and Jan Kalvoda's Civic Democratic Alliance (ODA) (14 seats), giving the new ruling parties a combined total of 105 seats.

This coalition was in a strong position and, exceptionally for a post-Communist government, gained strength throughout its term of office (Olson, 1997:181). Two factors were especially important in contributing to the strength of that coalition. First, the coalition members were all committed to the creation of a free market and all agreed that the privatisation of state assets was a vital part of that process.³⁵ Second, persistent splits within the opposition parties and the lack of any cooperation between them gave the government a free rein in implementing policy. In the face of an opposition unwilling or

³⁴The two-chamber Federal Assembly consist of the 150-member House of People, whose Deputies are elected in proportion to population and the House of Nations. The House of Nations consists of 75 Deputies from the Slovak Republic and 75 Deputies from the Czech Republic.

³⁵ Jan Kavan, (CSSD), the Czech Republic's Foreign Minister argued that members of Civic Forum were interested in a diverse form of property relations. However, after the initial euphoria at the end of 1989, it became impossible to advance these ideas in an environment where anyone who questioned the adoption of Western institutions was labelled as anti-transition (or anti-democratic) by the political right. It was difficult in any case to criticize Western economic models to a population who had little experience of them. To paraphrase Kavan people said "why do we need to create new models when we already know that the Western ones work?" (Kavan, speaking at the 'Ideas of 1989' seminar at the LSE, January 2000).

unable to muster any challenge, the coalition, with their combined majority votes, were able to collect all the key parliamentary posts. The impotence of the opposition was demonstrated by their inability to unite even on issues of great importance such as the creation of the Constitutional Court, the appointment of judges or the rules to govern the Central Auditing Office (Pehe, 1994a:15-21).

In the face of this decidedly weak opposition, the Government was able to pass various pieces of legislation with relative ease. If the governing coalition had wished to address the matter of property belonging to the churches, this would have been an ideal time to do so. Yet no attempt was made. Despite a consensus on policy regarding the transformation of the economy, the issue of church restitutions was an area where there was strong disagreement among the coalition members. While both the Christian parties, Benda's KDS and Lux's KDU-CSL, were committed to the rehabilitation of churches and religious organisations in Czech society, a political project which included the restoration of property, this was not a part of the agenda of either the Civic Democratic Party (ODS) or the Civic Democratic Alliance (ODA). It was difficult for the coalition partners to have these questions taken up for debate within the Government, let alone Parliament. A vote within the cabinet determined the Government agenda and, with the ODS as the majority party, it became easy for them to control the decision making process. Thus, the vote of April 1992 was regarded as finally closing the issue.

3.1 The Velvet Divorce

In December 1992, the Czechoslovakian Federation broke apart. The creation of a new state, the Czech Republic, on 1 January, 1993, gave those eager to press for the return of church property an unexpected

opportunity to re-open the issue of restitution. At the end of that month Lux, the leader of the KDU-CSL, complained that the other parties to the coalition, in particular, Klaus's ODS, were ignoring promises that had been made when the coalition was formed. One of these was the promise to restore property to the churches. Lux stated that, if the outstanding issues in the coalition agreement were not addressed, his party would consider leaving the coalition (Lidove Democracie, 22 February, 1993). Lux quickly gained support from Benda's Christian Democrats who argued for the introduction of a law that would remove the "unjust limitation" of the rights of the Church to property (The Tablet, 27 February, 1993). The combined action of the two parties generated enough pressure to ensure the issue was reopened.

The two Christian parties had successfully managed to return the issue to the political agenda, but the coalition was unable to agree the terms of draft legislation. The Christian parties were adamant that the churches should have the right to claim back property in the municipalities, while the ODS was equally adamant that the church should renounce these claims and limit their requests to only that property owned by the State. This proposal was unacceptable to the Christian Democrats, all the more so because some of the property claimed by the churches had in fact been transferred by the Government to the Municipalities. To deny the churches claims to this property, would, Benda argued,

deny the very principle of restitution....Should the ODS also mean the exclusion of that property which the state had transferred to municipalities in the past two years, then the restitution of the bulk of church property would be blocked and that we could not accept. (Esras, 1993)

There were other elements of the proposal that were equally unacceptable to the Christian parties in the coalition. One of these

was Klaus's suggestion that restitution of property be slowed down, delaying the return of property for at least three to five years. The Christian parties also supported a gradual process of restitution but during which time the State would subsidise the upkeep of historical church buildings and support certain charities. Klaus, however, wished to stop state funding of the churches *before* the completion of restitution. Again, Vaclav Benda complained that this proposal distorted coalition promises made between his party and the ODS:

In the Government coalition we had agreed that we would approach the question of church restitutions not as a separate problem but as part of the transformation of the whole church-state relationship which, within three to five years, should result in complete political and economic independence of the churches from the state. The ODS stands by that opinion but, absurdly, they have reversed the time-table, the sequence of steps: instead of making property restitution the first step in the process of the emancipation of the churches, they are proposing to make it the last step. That just is not on - we cannot begin to making the churches economically independent by depriving them of state subsidy and only then, three to five years later, perhaps restore to them the property which would secure their independent existence. (Esras, 1993)

The position of the Civic Democratic Party (ODS) was certainly the major obstacle to the return of property to the church. What gave this obstacle its potency were the substantial political differences that existed between the two Christian parties, differences which undermined the possibility of their combining in opposition to Klaus. Benda's Christian Democratic party was easily the most right-wing of all the parties in the coalition while the KDU-CSL was furthest to the

left. Despite Benda's support for restitution, his party was the closest to Klaus on virtually all other issues, while the KDU-CSL were alone among the coalition members in their concern for welfare, social security and market controls. This closeness between the right wing Christian Democratic Party and the ODS constrained the direction of Benda's criticism. Instead of directing it towards the most powerful section of the anti-restitution group, Benda's criticism was more commonly reserved for the group's weaker member, the other 'civic' and (at that time) anti-restitution party, the Civic Democratic Alliance (ODA). This greatly undermined the possibilities for a more effective debate on the issue.

In March 1993, amid growing tensions over church restitution, Klaus attempted to close the issue. He announced that buildings that had formerly been used for social and charitable activities would be returned. Land, forests, and real estate, however, would not be returned, and there would be no compensation for these assets. Justifying his position, Klaus was keen to make clear that the conflict over restitution, "is neither a question of Christianity or Christian ideals and values nor of the good and the prosperity of society .. It is exclusively and only a concern of property - and certain advantages, political and otherwise linked with that" (The Prague Post, 2 June, 1993).

The response of both Christian parties was to argue that the only way for the churches to become financially independent from the state was the return of their property. Setting aside his usual reserve in criticising ODS policy, Benda angrily denounced the proposal, arguing that:

If the churches are to become economically independent and if the returned property is to service them, they cannot be expected to lie for several months or years, deprived of the state subsidies they have been paid so far

[and wait] for the time when they will be given back their ruined property. (The Prague Post, 9 June, 1993)

The conflict between the Civic Democratic Party (ODS) and the Christian parties deepened further over St. Vitus Cathedral, confiscated by the Communists in 1954. As an important national monument, the ODS argued that St. Vitus should remain state property and be removed from the list of properties that was under consideration for return to the Catholic Church. This new development increased the anxiety of the Christian parties that Klaus had no real desire to return the property. The arrangement in existence was deeply unfavourable to the Church, who were being charged four million crowns a year (approximately £238.000) for religious use of the Cathedral. The proposal, Benda pointed out, would make Czech Bishops the only bishops in the world without keys to their own Cathedral.³⁶

The remainder of 1993 saw tensions heighten among the coalition partners. Conflict over restitution was only one source of this tension. Another source was the perception of both the KDU-CSL and the ODA that Klaus was doing everything to deprive them of any credit for the coalition's achievements. Any attempt by the smaller parties to carve out their own identities separate from ODS attracted the anger of Klaus. Things worsened after the Civic Democratic Party congress on the 27th and 28th November 1993 when Klaus openly attacked his coalition partners for "disrupting the coalition's unity by engaging in a strange pre-election struggle for voters' preferences." (Pehe, 1994:20). By mid 1993, the third coalition

³⁶ The Government employ the Cathedral's caretakers and determine when it is open. The fact that the Catholic Church does not have a set of keys to the Cathedral has caused some practical difficulties. Cardinal Tomasek, a short time after the collapse of Communism, wished to give a visiting dignitary a tour of the Cathedral. However, the Cathedral was closed, the caretaker could not be located, and the tour had suddenly, and embarrassingly to be cancelled (The Prague Post, 13 April, 1994).

party, the Civic Democratic Alliance (ODA), had committed their support to the Christian parties on restitution. (CTK (Czech News Agency, 14 July, 1993). Welcome as the move was for the pro-restitution group, it made little difference to the resolution of the issue, as the junior partners remained unable to reach an agreement with an ODS seemingly unwilling to even discuss the matter. (see CTK (Czech News Agency, 4 February 1993; 3 December, 1993).

Despite the frustration of the junior partners with Klaus and the growing feeling that they were getting far less out of the coalition than they had bargained for, there was still an insistence on the importance of maintaining the coalition. Public opinion, on the whole, was concerned with economic and political stability, not the details of property belonging to Catholic or Jewish communities. High support for economic transformation benefited all parties in government. Clearly, a unified front still had its advantages. Whether or not the coalition would be able to sustain this unity would depend, however, on resolving the restitution question, as with other issues where opinion was seriously divided, election rules for the Senate and legislation on non-profit organisations.

In January 1994, Klaus's ODS finally presented proposed legislation on church restitution. As expected, the draft legislation proposed that only the state, not the regional or municipal authorities, was obliged to return confiscated church property, and then only property that was used for religious purposes. The junior coalition parties rejected the proposal, insisting on the restitution of all types of property, without discrimination. The discussions concluded with Jan Kasal from KDU-CSL proposing an even more extensive piece of draft legislation than that put forward by ODS. The possibility of reaching a peaceful resolution now seemed even more distant. Criticising Klaus and the ODS for the chronic delays in resolving restitution, Orel, spokesman for the KDU, complained, "For

over a year we have been trying to prevent this issue from becoming a pretext to threaten the government coalition ... but it's very difficult" (Reuters, 20 March, 1994).

In March 1995, the issue once more came to a head. The ODS took its firmest stance to date and insisted that the restitution process should be stopped. The church could keep any building they already had, but the ODS rejected the return of land and pointed out that some of it had already been sold to new owners in any case. KDU-CSL accused Klaus of intransigence. The opposition parties, the Communists and the Social Democrats, added their support to Klaus, making something of an odd alliance as by this stage *all* of the coalition partners with the exception of ODS supported church restitutions.

With the ODS supported by the Communists and the Social Democrats, in opposition to the three junior coalition members, one might have expected an evenly matched battle to ensue, were it not for the fact that the strengthening consensus among all the junior coalition parties on restitution was matched by a decline in the prospects of organising this consensus into effective political action. Kalvoda's Civic Democratic Alliance (ODA) was rife with scandal, while Benda's KDS struggled to overcome divisions on recent proposals to merge with the ODS. Revelling in the lack of unity among the governing parties, Zeman, leader of the Social Democrats, the major opposition party suggested the possibility of a coalition to Joseph Lux should the Social Democrats perform well in the following year's elections.³⁷ This was an odd proposal from a party which had used, and continued to use every opportunity the restitution conflict offered to criticise KDU-CSL. For example, at the end of 1995 when deputies from KDU-CSL had again proposed a law

³⁷ More specifically, they offered to the KDU one chair more than the ODS were willing to offer. Lidove Noviny, 27 January, 1996.

to complete the restitution of church property, Zeman's swift reaction was that Parliament should wait until after the elections the following June before introducing any legislation:

This problem of the restitution of church property depends on the results of the coming elections and I think it is not the best thing to discuss this problem on which the CSSD has a different opinion than KDU-CSL. Voters should note that every single vote to KDU-CSL means a vote for restitution of church property and of course the same is true in the opposite way. (Zeman, cited in Lidove Noviny, 27 December, 1995)

3.2 Restitution and the Election Campaigns 1996

On 26th January, 1996, the Social Democrats launched their election campaign with a crushing criticism of the project to restitute church property. In highly emotive terms, the vice-leader of the Party, Karel Machovce, accused Cardinal Vlk of "extortion of the people of this nation" (Lidove Noviny, 27 January, 1996). At the same time, Machovce rejected the view that political differences with KDU over restitution signalled the unlikelihood of post-election agreements between the two parties. Clearly, the potential advantages of a post-election pact with KDU-CSL outweighed any moral misgivings CSSD might have had about entering a partnership with the main political allies of what they described as the nation's 'embezzlers'.

The ODS, for their part, were equally critical of the KDU's support for restitution and were equally open to the possibility of maintaining an alliance with them. The chances of either the ODS or the CSSD winning enough seats to form a single party Government were slim, making it all the more important to court partners who

might be willing to enter or re-enter a coalition. The KDU-CSL was the obvious choice for both parties, given that the Civic Democratic Alliance (ODA) was expected to do badly and that the KDS has already agreed to a coalition with the ODS. Klaus's approach concentrated on decoupling the issue of restitution from the upcoming elections. He commented, "I can't imagine we could solve it [the restitutions] before the coming elections" (Lidove Noviny, 29 January, 1996). Instead, he proposed that the most efficient way forward was to remove the matter from Parliament and have the executive decide restitution case by decree.

In March 1996, Vaclav Benda's KDS finally merged with the ODS. With the ODA in disarray and Benda's KDS on board, it seemed on the face of things that the Civic Democratic Party had a definite upper-hand in the coalition and that they were in a good position to disregard the preferences of the KDU-CSL with respect to restitution. What Klaus's ODS had failed to reckon with was a public increasingly tired of being ignored. Embroiled in their own squabbles, the coalition parties had persistently failed to pay attention to the mood of the public. A May 1995 opinion poll had revealed that 60% of the public registered mistrust in both Parliament and parliamentary deputies (Kettle, 1995b:72), and an opinion poll by Stem in June 1996 showed Klaus to be considered generally "competent and purposeful, but also arrogant and unresponsive to social problems" (Green and Leff, 1997:70) Yet, despite signs of growing dissent among the electorate, the coalition continued to conduct the election campaign as if the public scarcely existed, devoting their time to intra coalition arguments instead of addressing the criticisms of the opposition (Pehe, 1996: 36).

The clearest sign of impending electoral difficulty for Klaus was that the decline in public support for his own party was matched by steady support for his coalition partners. This support for the

smaller coalition parties, added to the smaller parties own lack of trust in Klaus, seemed likely to ensure that the ODA and the KDU would adopt a more forceful approach to their own interests over and against the interests of the coalition as a whole (Kettle, 1996:49). In the run up to the 1996 elections, for example, both Kalvoda's ODA and Lux's KDU-CSL complained about the 1992 coalition agreement arguing that the domination of departments by ODS had ensured that the agreement was dishonoured (Kettle, 1996:47).

On the opposition side, the Social Democrats were also doing well cashing in on the numerous protest votes against Klaus's political style, specifically his arrogance and distance from the electorate. In addition, they were gaining votes from those seriously disillusioned with the consequences of economic reforms. The ODS election campaign had concentrated almost exclusively on reminding the country of what the coalition and ODS in particular, had achieved. It was an election strategy that left plenty of space to any political group capable of addressing the medium and long terms losers in the transition to a market economy. The political party able to colonise that space was the Social Democrats, who had grown into an increasingly disciplined force under the leadership of Milos Zeman (Pehe, 1997:8).

4. The 1996 Elections and Aftermath.

Klaus's Civic Democratic Party lost its majority in the June 1996 elections. This loss of confidence in the ruling party benefited the Social Democrats, who gained a swing of support that left them the second largest party in Parliament. The majority of politicians in both the ODS and the Social Democratic Party remained, as they always had been, firmly opposed to the return of church property. Despite this consensus among politicians from the two largest parties,

strangely enough restitution became once again the main item on the political agenda. What placed the issue of church property centre-stage was the new line up of political forces. With a win of 61 seats in the new Parliament against the coalition's 99, the Social Democrats now held the key to the stability of any future government. Lengthy negotiations between the ODS coalition and the opposition concluded in the formation of a minority government. These negotiations saw Klaus re-appointed Premier while Zeman's Social Democrats took a number of key positions, including the Speaker's chair and chair of a third of all Parliamentary Committees (Agence France Press International, 22 July, 1996). All in all, this arrangement could well have been enough to ensure some element of political stability. The CSSD had done well out of the various rounds of horse-trading, and with many new challenges to occupy them, a certain amount of equanimity between them and the four parties in Government was expected.

The main obstacles to political stability were the recurring tensions in Klaus's relationship with his own coalition partners. The dissatisfaction that produced this tension could no longer be ignored. Both of the coalition partners had performed well in the June 1996 elections. The increasing popularity of the Social Democrats had not damaged Lux's party and a win of 13 seats secured KDU-CSL the third strongest position in Parliament. In addition, although the coalition still seemed set to survive, a major change of attitude had nevertheless come about amongst the junior partners who had come to the realisation that "being seen as allies of the ODS may not always be to their advantage" (Pehe, 1997:10). Klaus could no longer operate on the assumption that the leaders of the minority parties in Government, Lux and Kalvoda, would willingly stay on board regardless of how many times Klaus acted against their interests.

Therefore it was vital that Klaus now sought to regain the confidence of his junior parties.

However, for Klaus, in the vulnerable position of head of a minority Government, this was no easy task. Klaus had got himself into the awkward situation of being hostage to his coalition partners and on the other hand to his opposition. A final issue that made difficult the task of securing political stability was the fact that both local elections and senate elections were scheduled in the upcoming session. No political party had had a decisive victory in June, and this considerably upped the stakes of the Senate elections in November 1996 (Olson, 1997, 178).

From the viewpoint of the junior partners in the coalition, if Klaus would not agree to their demands when he was in a strong position, their only option was to push these demands when his position was weakened. This strategy brought criticism from the media who saw it as unseemly that a minority coalition partner should take advantage of the ODS in this way and immoral that such a party should endanger the stability of a Government of which they were part. The pro-Klaus newspaper, *Lidove Noviny*, complained bitterly that, “after the elections KDU-CSL used the insecurity of ODS and pressed the discussion without end about restitution” (*Lidove Noviny*, 17 July, 1996). *Nevitelny Pes* criticised the “pressure of the peaceful power of Lux” (*Nevitelny Pes*, 19 July, 1996), and a later later article in the paper complained, “it looked very silly when Lux brought up this case of returning the forests at the moment when the coalition had their nose two and a half millimetres above the surface. What he brought up made waves and those waves brought water right into the nose of the coalition” (*Nevitelny Pes*, 30 July 1996).

Nonetheless, the KDU remained sensitive to their political opportunity and in the immediate aftermath of the 1996 elections

they put fierce pressure on the ODS to accede to their concerns.³⁸ Sheer political survival and not any change in belief saw the ODS eventually take action on the issue of the restitution of Church property. This marked the beginning of what became known as the 'Restitution Full Stop' talks. An agreement was worked out under which Klaus committed himself to the return of property and the phasing out of state subsidies to the church. Following this, on the 29th June 1996, the same month of the elections, ODS deputy chairman Jan Strasky announced that the Government would return to the Catholic Church the forest land it claimed and that, over the four years after the return, state subsidies would be phased out by a reduction of 25% each year.³⁹ The real estate belonging to the Catholic Church was calculated and the government pledged to return to the Church, if it asked for it, approximately 175,000 hectares of land, of which 50,000 belonged to monasteries and 120,000 belonged to dioceses. It also promised to return Communist-seized church properties now in state hands, if no "important public interests" were affected (Luxmoore, 1997:96).⁴⁰

The speed with which the Government was eventually able to work out this agreement casts serious doubt on arguments that a range of insurmountable pragmatic considerations, public opinion, or deep-seated ideological differences lay behind the delay to a resolution of the restitution conflict. At the end of the day, sheer

³⁸ Not without resistance however. Unsurprisingly, there were efforts to limit the extent to which KDU could capitalise on these political opportunities. For example, Vaclav Belohradsky ODS, in an article in *Lidove Noviny* argued, "If KDU-CSL is stating this problem as its condition to be in the Government, it is trying to force its minority interest to the majority of this country. In this case it would be a perfect example of consequence of lower level of democracy in which we will have to live after the elections." *Lidove Noviny, Bez parlamentu? (Without the Parliament?)* 29 June 1996.

³⁹ "The agreement also allowed for the return of real estate to a host of other civic organizations" Reuters, Eastern Europe, 1 July 1996.

⁴⁰ See also CTK News Agency, 29 June, 1996

political survival served as the mother of political invention in the face of what had previously been regarded as insuperable obstacles.

But if the about-turn on restitution was intended to mollify Klaus's coalition partners, it had the opposite effect on the Social Democrats. Of the various ideological divisions between the ODS and the Social Democrats, the issue of the return of Church property was the most divisive. The two other areas where there were substantial differences of opinion, tuition fees for University and reforms in the health sector, were not insurmountable (The Financial Times, 22 July, 1996). The proposed return of land and buildings to the church was still vigorously opposed by the Social Democrats, the Communist Party, and the extreme right Republicans. Neither the Republicans or the Communists wished the church to have any property back, arguing that it should remain in the hands of the state. Klaus's strategy was to bypass the hazards of open debate. He decided that the Government would issue an executive order to return the property.

Klaus made no attempt to soften the position of the Social Democrats. Indeed the Government's announcement on 29th June was without any preceding discussion with the religious bodies or with the Social Democrats who were not even been notified of the Government's intentions (CTK (Czech News Agency), 29 June, 1996). The CSSD were furious and a major showdown was scheduled for 23rd July when the Government was due to present its programme to Parliament, including its proposals on restitution and then face a vote of confidence. Klaus's options were limited. He could not hope to please both his coalition party and his opposition and so the critical question was which of his two adversaries, CSSD or the KDU, was likely to do him most damage. Of the two parties, KDU had far less to lose in refusing to support the coalition. Zeman, on the other hand, with his recently acquired role of 'kingmaker' would have to

bear responsibility for the inevitable instability that would ensure from a no confidence vote in the Government. The optimal strategy was to take a gamble that Zeman would be reluctant to appear as a wrecker.

23rd July was the date set for the vote of confidence in the government's programme. In the run up to this first test of the minority government's ability to survive, all parties staked their claims. The Social Democrats made it clear that their confidence in the Government would depend partly on how Parliament voted on the proposed return of forest land to the Church. Casting themselves as the guardians of democracy, Pavel Dostal declared, "the government cannot dispose of state property as if it belonged to the executive" (Agence France Presse International., 21 July, 1996). The President, Vaclav Havel, who had already expended enormous effort in establishing a minority Government brought the leader of the opposition, Zeman, together with the three leaders of the coalition in talks. Havel expressed his preference that the opposition show their confidence in the Government and stressed that the interests of the country were at stake (Agence France Presse International., 21 July, 1996; The Financial Times, 22 July, 1996). Havel's intervention was important in increasing the pressure on Zeman. However, only one day before the vote, Zeman was arguing that a no-confidence vote in the Government "would not be a tragedy" (The Financial Times, 22 July, 1996). On the same day, the ODS announced that if the coalition did not receive a vote of confidence, they would find it "unacceptable to take part in the formation of another government" and consequently, the Social Democrats should then bear "the entire responsibility for the destabilisation of the country's domestic political situation (Agence France Presse International, 22 July, 1996).

It was clear that Klaus's strategy towards the Social Democrats was not bearing fruit; the party would not budge. Zeman continued to insist that the Government be banned from returning land to the Church and confirmed that his party would be unable to offer their support without this guarantee. When Parliament reconvened on the Tuesday, Zeman attempted to place on the agenda a resolution opposed to the executive return of church property. The assembly voted against placing the matter on the agenda and instead agreed to postpone the vote of confidence until the following day, allowing Havel ample time to address Parliament and to attempt to persuade deputies that the coalition was "a well qualified team" and that the "Government's objectives are close to many opposition deputies". Finally, by the purposeful absence of deputies from Sladek's Republican Party, Klaus scraped through winning his vote of confidence with just enough votes to allow him to proceed with his programme for Government.

The following January 1997, the Minister of Culture (KDU-CSL) brought to the Government a list of property to be returned to the church by order of the executive (Pravo, 16 January, 1997). For those who were in favour of restitution, things seemed, once and for all, to have reached a favourable conclusion. Yet, in the event, the executive proved inordinately slow in reaching decisions about what property should be returned from the list. By the end of the year only 200 items had even been approved for restitution by the Government (The Associated Press, 6 May 1998).

4.1 The Collapse of the Coalition Government

In November 1997, the Klaus-led coalition government finally collapsed. The KDU-CSL had become increasingly distanced from the ODS and the growing storm of financial scandal associated with ODS

ministers allowed the KDU to opt out of the coalition with their dignity intact. Havel appointed Josef Tosovsky, his favoured candidate, to head a caretaker Government. And Tosovsky, acting on the conditions agreed under Klaus's government, finally began to implement the executive decrees that would return property to the Catholic Church. Although the interim Government was sympathetic to the idea of addressing the outstanding concerns of the church, as a temporary administration it was only able to prepare some proposals for the next Government and to carry through legislation already in existence. Meeting leaders from twenty three religious groups and churches in February of 1998, Tosovsky's Minister for Culture, Stropnický, made clear his commitment to developing constructive relations between the state and the church. He regarded as a priority an increase in churchmen's salaries. At the same time, the short-term caretaker government would be unable to deliver a solution on the issue of restitution: "It is not realistic", Stropnický stated, "to expect this government to make a breakthrough in the relations between churches and the state" (CTK (Czech News Agency), 26 February, 1998).

By the end of its administration, apart from designating a number of buildings to be transferred, the Tosovsky government had not actually managed to return any properties to the church. The Church's only chance of having the restitution issue resolved now lay with the upcoming election and the chance of a new centre-right Government, one in which the KDU-CSL had sufficient political weight. A number of factors combined to make this outcome an increasingly remote possibility. The memory of their relationship in Government was apparently too recent for leaders of the recent coalition parties to put aside their differences and join forces for the upcoming elections. "Everything is due to the unfulfilled ambitions of individual politicians and their lack of humbleness towards the

opinions of the others and towards people's interests. I'm leaving, I'll no longer work with liars” said Karel Ledvinka, deputy Chairman of the ODA (cited in *Mlada Fronta Dnes*, 11 March, 1998). The parties on the right and centre were unable to stop bickering, let alone come near to forming a consensus. Although ideological differences were not great, personal animosities were rife. Vlastimil Tlustý, an ODS member of the Budget committee, complained bitterly that, “in the Lower House budget committee, the members of the former coalition parties are capable of cooperating, which, unfortunately, is not true of the parties’ top leaders” (cited in *Mlada Fronta Dnes*, 11th March 1998).

The second factor, which militated against the likelihood of KDU-CSL becoming a party of consequence, was the emergence of a new political force which altered greatly Lux' s chances of turning his party into a thriving organisation catering to the middle-classes. The KDU-CSL had been successful to an extent in capturing the loyalties of some of the electorate discontented both with Klaus’s extreme right views and with the Social Democrats. However, the Freedom Union, a breakaway group from the ODS, led by the highly popular MP Jan Ruml, emerged at the beginning of 1998. Ruml 's party immediately became a more natural territory for the Czech middle class mainly town dwelling atheists for whom the KDU’s association with religion was neither relevant or attractive. Finally, Lux' s willingness to cooperate with CSSD and even enter a future coalition with them, put him in a minority and worsened already existing tensions within his own party.

5. The 1998 Elections

The 1998 elections were held on the 19th and 20th of June. The Social Democrats emerged with a 5% margin on the Civic Democratic

Party (ODS), 74 and 63 seats respectively. KDU-CSL won 9% of the vote giving them 20 seats in the 200 seat Parliament (Czech Statistical Year book, 1998). No party had an overall victory and, with any number of governing coalitions possible, post-election bargaining promised to be a tense affair.

Zeman, leader of the Social Democrats, had already prepared the ground for negotiations with the KDU-CSL. For example, at a press conference on the 25th of May to launch their 'social doctrine' programme, the party introduced the Catholic concept of 'subsidiarity', describing it as one of the impulses of their new party programme (CTK (Czech News Agency), 25 May, 1998). Although opposition to church restitutions was undeniably a part of the Social Democrats program, the CSSD took care to avoid making political statements that could be characterised as anti-religious. Their support for halting church restitutions was argued solely on the grounds that the matter was legally complex. Perhaps the church were not legally the owners of the property they were claiming, queried the CSSD, but merely the administrators. Even if they were the legal owners, should they, asked the party, ever have been given the property in the first place (Lidove Noviny, 11 July, 1998). Yet, as the election day loomed closer, Social Democratic comment on these 'legal difficulties' faded, and Zeman began to dilute his hitherto harsh criticism of church restitution in favour of mild and ambiguous opposition. Finally, a few weeks before the election, the Party reversed its position entirely. The spokesman for the CSSD, Libor Roucek, announced in an interview that church property nationalised before the 1948 Communist take-over would not be returned, but anything seized after that date would be. "That's the law," he said. "but the borderline is Feb. 25, 1948." Most disputed

church properties, he pointed out were nationalised before then. (The Prague Post, 22 July, 1998).⁴¹

This change in the Social Democrats hard-line stance was enough to ensure that Lux entered talks with the CSSD after the elections. Lux agreed that if his party was offered the post of premiership and given room to implement Christian elements of their party's policies, they could enter a coalition with the Social Democrats (Hospodarske Noviny, 30 June, 1998). Yet, two weeks after the election neither the CSSD or the ODS had actually succeeded in concluding any agreement with the minor parties and, on 3rd July, Klaus and Zeman, sworn enemies, entered talks on the formation of a minority Government (CTK (Czech News Agency), 3 July 1998). These talks between the two major parties followed the energetic but failed attempts by Zeman to attract Ruml's Freedom Union (US) into a coalition with his party and the KDU-CSL. Zeman's proposal to the Freedom Union included the offer of up to four positions in the eighteen seat cabinet, while the position of Prime Minister was to go to KDU-CSL leader Josef Lux. Ruml refused Zeman's offer, expressing instead his hope for the creation of a centre-right coalition between his party, the ODS, and the KDU-CSL. With no hope of support from the Freedom Union, one of two remaining options for CSSD was to attempt a minority cabinet with KDU-CSL and the toleration of the Communist Party. This proposal was rejected outright by KDU-CSL who refused to agree to any

⁴¹ In response, the Church, no doubt exhausted from continually expressing their agreement with the 1948 deadline once again noted that "the church accepted the First Republic seizures since they occurred under a democratic government." Nevertheless, the church's spokesman, pointed out that "hundreds of church properties seized after 1948 still have not been restituted [and that] the church in the Czech Republic has a list of 232 properties that form such clear-cut cases that there should be no delay in restitution, while other properties' ownership is disputed and still others the church recognizes it will never get back because of changed circumstances." (The Prague Post, 1998).

arrangement sanctioned by the Communists. The final option open to the CSSD was a solo Government tolerated by the ODS (The Prague Post, 8 July, 1998). Up until the elections the idea of any such pact had been rejected by both parties as ludicrous, yet in mid July, personal animosities were put aside and an opposition agreement was signed between Klaus's ODS and Zeman's CSSD.⁴²

Of all potential coalitions, the one between the CSSD and the ODS was the worst for the church. On 10th July, Zeman announced that, with the exception of the Nazi seizures of Jewish property during WWII, the Government was stopping the program of restituting property to the churches (CTK (Czech News Agency), 10 July, 1998; BBC Summary of World Broadcasts, 13 July, 1998; Lidove Noviny, 11 July, 1998). Any hope for a favourable decision on restitution or on other outstanding issues such as a the matter of a treaty with the Holy See, was once again greatly dependent on ODS, the largest party formally in opposition to a minority Government.⁴³

Two days after the signing of the ODS-CSSD opposition agreement, a meeting between Cardinal Vlk and Vaclav Klaus dashed hopes the church might have had for any immediate change of ODS policy. The meeting produced nothing apart from a comment from Klaus that there would be no more meetings for the immediate future (CTK (Czech News Agency), 13 July, 1998). However, a future and stronger ODS will perhaps use the 'anti-church' stance of the Social

⁴² Klaus and Zeman agreed between them to attempt to introduce an amendment to the Constitution that would rule out the smaller parties. The agreement that was signed by the two parties stated that such a constitutional amendment would "would lead to enhancing the importance of results of competition between political parties". ODS also agreed that they must not initiate or support a vote of no confidence in the Government (The Prague Post, 15 July, 1998).

⁴³ Jaromil Talir, ex-Minister of Culture KDU-CSL, commented to me "if today in the Parliament when all votes of KDU-CSL, ODS and the Freedom union are counted together they have 102 votes, [so] if the decision (on the Concordat) should be accepted it all depends up to ODS how they are going to think about those agreements." (interview, 1998)

Democrats as a stick with which to beat them. This possibility has already been advanced by a Czech media firmly opposed to the Social Democrats. Lidove Noviny, the pro-Klaus newspaper, which had consistently espoused an anti-church restitution line managed an overnight somersault with the comment that,

[It is a] very important principle, what was stolen, should be returned, if it is possible in any way. We are not saying that all Klaus's Governments were keen in returning this property, but they did admit the principle listed above. In this way they did not eliminate the possibility of returning the property. The church and its believers can consist of, and in the western world they do have, a majority of the civil society power which is helping to humanise the society. That they need money to do so is logical - how could they have schools, hospitals or asylums? How could they practice charity? For those who are needy, a good word is enough: but often they need at least soup or some clothes. In the visions of CSSD those things should be done by a powerful state. Who knows, maybe Czech Social Democrats together with the classics are still thinking that religion is the opium of the people and modern world will take over it. Why would people then need any Church? (Lidove Noviny, 11 July, 1998)

For the time being however, there was little sign of ODS playing any role other than that of giving its silent support to CSSD. The vote of confidence in the new Government was set for the 17th of August. ODS deputies left the parliament ensuring that the Social Democrats' 74 votes were enough to win a majority over the minority of Members in opposition who were left in the Chamber.

5.1 The Social Democrats and Restitution

One month after the Social Democrats formal policy statement that the Government “is not going to carry on the executive transferring of state property to churches”, the Minister for the Interior, Vaclav Grulich, proposed the transfer of the Zitencky Castle back to the Catholic Church (cited in BBC Summary of World Broadcasts, 20 August, 1998). Grulich was responding to offers by the Church to pay for the reconstruction of the building and guarantee a rental price to the Government at a nominal fee for a period of ten years (Rude Pravo, 9 September, 1998). The return of the Zitencky Castle through a decision by the executive openly broke with the Government's stated convictions by which it had set such great store, that property should not be returned to the churches by executive decrees.

The Social Democrats (CSSD) continued their four year term in power. Yet, the extent to which it is possible to argue that it was indeed the CSSD in power is questionable. The ODS maintained tight control on a number of key posts, including that of Minister for Culture, whose responsibility covered churches and religious organisations. There was in this period no change on the issue of restitution.

6. Analysis and Conclusion

This chapter sought to establish whether the intensity of conflicting party opinions on restitution explains the persistent conflict over church property between 1990 and 1998. If deep-seated convictions on the part of political parties are to account for the obstacles to restitution, it should now be clear that this is an argument that sits uneasily with the process described above: in sum, the readiness of

parliamentary parties to change their position on the restitution issue whenever narrow political gains were to be made. Throughout the period 1992 to 1998 the only two parties that were consistent on the issue of restitution were the Communists and the Christian Democratic Union-Czechoslovakian People's Party, a point I will return to later. Prior to 1992 the smaller of the two Czech Christian Parties, Vaclav Benda's right-wing KDS, began its political career with a firm commitment to restitution, modified that position substantially when it formed an electoral pact with Klaus's ODS and throughout the Government coalition held back from criticising the ODS' anti-church restitution line. The Civic Democratic Alliance (ODA) adopted an anti-church restitution line in the early 90's but, after growing disillusionment in their partnership with Klaus, shifted their position to pro-restitution. Vaclav Klaus, the leader of ODS, led his party from an initial promise to reconstitute church property to belligerent refusal to even discuss the matter. He subsequently agreed to reconstitute a small number of properties, later agreeing to reconstitute all property. Finally, Klaus proposed an executive decree that would bypass Parliament and return church property, but ultimately backed the Social Democrats policy to stop all church restitutions. The Social Democrats for their part were opposed to restitution, modified their position on the eve of their coming to power, stopped all restitutions when they came to power in the Autumn of 1998 (on the basis that Parliament was being bypassed in the decision making) and then themselves bypassed Parliament to return church property they did not want.

From this reconstruction of events we can conclude that, while political parties certainly had distinct attitudes towards restitution, these attitudes, for most of the parties, were not a significant determinant of their actions. The question posed at the start of this chapter was whether the strength of anti-restitution opinions among

politicians was the decisive factor in prolonging the restitution conflict. It now seems, on the contrary, that it is the relative *weakness* of politicians' convictions that is significant, for these convictions were always vulnerable to being trumped by other more important interests. Two paradoxes need to be addressed here. First, why would an issue (church restitutions) that held little interest for the public become so controversial among political parties? Second, how, on this most divisive of political issues, was it then possible, politically, for politicians to be so capriciously inconsistent?

6.1 Paradox One: the Discrepancy Between Public and Parliamentary Concerns

The first paradox only appears as such if one succumbs to the fallacy of comparative transference. That is, there has been a tendency among political scientists to believe that conclusions reached regarding the development of western party systems can be unproblematically applied in other contexts (see, for example, Lipset and Rokkan, 1967). This has led to confident assertions that political parties emerging in Eastern Europe after the collapse of Communism would emerge on the basis of pre-existing social cleavages (see for example, Kitschelt, 1992; Evans and Whitfield, 1993). This was not the case in post-Communist Czechoslovakia.⁴⁴ Klaus's ODS,

⁴⁴The building of parties and party systems is something that political elites in all post-authoritarian contexts need to address. It is difficult however to draw any broadly applicable conclusions on the basis of comparisons between Latin America, Southern and Eastern Europe. The distinguishing feature of Eastern Europe is the lengthy and unbroken period of time these countries spent under authoritarianism. This stands in sharp contrast to Southern Europe where, for example, in Greece and Spain "opposition parties maintained a significant existence in emigre form and elements of political pluralism were able to regain some strength" (Pridham and Lewis (1996). The situation is very different from Latin America too. In Venezuela for example, the period of dictatorship lasted ten years, a comparatively short period. What marks these cases off most strikingly from Eastern

Kalvoda's ODA, and Benda's KDS were successor parties to the broad-based Civic Forum. Emerging at the elite level, as a consequence of splits within Parliament, these parties were without constituencies, had few roots in society and small memberships.⁴⁵

As such, these political parties are faced with the challenge of building their constituencies from the top down; a process that is all the more difficult because the parties are so very similar. Mateju and Vlachova's research on the role of political attitudes and values in electoral decisions concluded with respect to ODS and ODA that "both parties are the virtual and ideological twins of the Czech

Europe is that mobilising elites were operating in a context where their societies had already made a transition to a global capitalist economy; thus, they could appeal to relatively well-defined constituencies. Eastern European societies, on the other hand, were often faced with what Offe has termed 'triple transitions'. For example, the Czech Republic and the Slovak Republic had to face the problem of building new states in 1993 at a time when they were attempting to consolidate the transition to a liberal democracy and integrate themselves into a global economy (See Cammack, (1997); Julia Buxton, (2001); Przeworski, "Some Problems in the Study of the Transition to Democracy" in O'Donnell, G. et al. (eds) (1986);. Indeed, even within the areas, differences among countries are sufficient to make generalisations awkward (See for example, Lijphart et al, (1998).

⁴⁵ The first post-revolution organization that governed the country is more adequately described as a movement rather than a party. Civic Forum had a weak, formal structure if any, it had no country organization, and it had none but the vaguest of membership rules. It was not based on economic or social cleavages, but on political ones. Its appeal was the anti-Communist vote and its sole function in the 1990 elections was to allow people to give their stamp of approval to the 'Velvet Revolution' and to indicate whether or not they wanted to carry on with some broadly defined 'return to the West.' The emergence however of ODS and the ODA was based neither on economic nor social cleavages. These parties emerged out of the broad based Civic Forum on the basis of *political* differences. Both parties were comparable in makeup and were aimed at broadly similar constituencies. The differences were that Klaus's ODS wanted to organize Civic Forum into a proper party with a clear hierarchical structure, rules for membership, party dues and so on, whereas ODA wanted to retain the looser structure of a movement and was resistant to 'participation' with all the negative connotations that term held for a public understandably cynical of anything to do with 'Party'. Civic Forum split and the success of Klaus's strategy proved itself in the 1992 elections - a fact which underlines the commensurate importance of both solidarity *and* organization.

political scene”, and that the similarities are so strong “that it is virtually impossible to model the choice between them.” (Mateju and Vlachova, 1998:264).⁴⁶ A similar potential for rivalry face the Social Democrats (CSSD) and the Christian Democratic Union (KDU-CSL); 61% of KDU-CSL supporters put themselves at the centre and 60% of Social Democrat supporters also see themselves as being centrist (Klima, 1998:494).

With the ODA and the ODS attempting to attract the same sectors of the electorate, and the CSSD and KDU-CSL marked by similar rivalry, it became necessary for these parties to establish themselves in society while, at the same time, distinguishing themselves from each other.⁴⁷ I suggest that the issue of church restitution offered the parties an opportunity to do precisely this; an opportunity to build distinct publics. Although the public was not especially interested in church restitutions, the issue nevertheless gave the parties a chance to build their identities in opposition to each other. Church restitution was the ‘political football’ that allowed KDU-CSL to be characterised as the Vatican's representatives and the Social Democrats as Communist fanatics who wanted, as Klaus warned, ‘to turn the clock back.’ The Prague Post noted that Klaus “repeatedly described the June elections as a simple choice between continuing the transformation started in 1989 - under him - or reversing it” (27 May 1998). The difficulty for the Social Democrats in resisting such a description was, as one commentator remarked, not so much “the “red” label some opponents try to pin on the party ... but the lack of a clear, alternative [political] program.” (The Prague

⁴⁶ Interestingly in their analysis of what are relevant conflicts/values in voting decisions, church restitution or religion in general does not feature. Similarly Petr Kopecky’s article (1995) shows no difference between the policies of ODS and Kalvoda’s Civic Democratic Alliance.

⁴⁷ The alternative would be amalgamation, but strong personality differences weighed against this possibility.

Post, 4 February 1998).⁴⁸ All those who want to live in freedom should vote for the ODS, recommended Klaus in his pro-restitution phase (CTK (Czech News Agency), 7 May, 1998). The typical and limited response by the Social Democrats were, "I believe we can only really end this perception after we get into power and show that we are not doing anything to turn back the clock." (The Prague Post, 4 February, 1998)

In a society which is still awaiting the consolidation of new social cleavages, it is unsurprising perhaps that parties might still try to keep alive that most major of issues, indeed the sole issue, of the 1990 elections - the defence of the Velvet Revolution. The lack of support in the Czech Republic for a return to the Communist regime, meant that all parties had, in one way or another, to present themselves as building on the achievements of the Revolution. Perhaps this explains why, regardless of what position a party struck with respect to church restitution, it was a position unfailingly described by their political opponents as anti-revolution. In effect, all parties to the restitution conflict were accused of wanting a return to the past. In the case of the Communists or the Social Democrats it was a desire to return to the previous regime: in the case of the Christian Parties to the status quo ante, and in the case of Klaus's ODS the accusation was that by refusing restitution they were implicitly supporting the policies of the Communist regime. Equally, the response of all the accused was firm denial; none supported the previous regime, and none were anti-Christian. If they were opposed to restitution it was because they were pragmatic, future oriented, and realistic. Rather than looking back to a Communist or traditional past, their preferred stance, all claimed, looked to the future. For the Communist Party it was simply a case that, "many of these restitution cases are before the courts for many years and have

⁴⁸ The Prague Post citing Jiri Sandera, a manager at the Stem Polling Agency

not been finished so I mean its a problem of economic rationality.” (interview with Miloslav Ransdorf, 1998) For the Christian Parties restitution, far from being a return to the past, restitution was a ‘return to the west’ as it would bring the Czech Republic into line with the more general model of church-state relations in the rest of Europe. Similarly, the CSSD claimed to have no position on the church itself; their anti-restitution stance was derived merely from a concern to protect the institutions of parliamentary democracy.

In sum, a ‘politics of demonisation’ aptly describes much of political interaction in the Czech Republic. The lack of ‘normal’ political debate became a frequent subject of disapproval by both politicians and the public. The Czech sociologist Jiri Pehe, captured the mood well in his comment that political culture would be best served, “if politicians started to focus on matter-of-fact discussion on various topics, if they stopped moving in an artificially created reality of myths which they themselves create and with which they expediently scare the society.” (cited by CTK (Czech News Agency, 7 May 1998). In this context, the possibility of resolving the issue of church restitution through reasoned discussion was greatly reduced. When taken up at the level of the state, differences over the role of religion and the role of the church became assimilated to the more narrow concerns of parliamentarians. Ultimately, the line-up of political forces and their competing interests accounts for the church’s slow progress in developing economic independence. Politics, not anti-Catholic attitudes, is the crucial and dynamic factor in explaining the church's continued reliance on the state.

6.2 Paradox Two: the Instability of Party Preferences

This chapter described a political process that saw political parties readily ditching policy positions when the opportunity to do so

brought greater rewards. Yet, it is notable that fickleness was not a trait of either the KDU-CSL or the Communist Party. Both these parties remained consistent in their attitudes towards restitution. The Christian Party (KDU-CSL) and the Communist Party have three things in common. The first is the reliability of their respective positions on restitution, the second is their party age.⁴⁹ and the third is their high party membership.⁵⁰ Both party age and high party membership contribute to identity and stability. I suggest identity and stability militate against erratic behaviour: parties have a greater sense of their constituents, have their colours more firmly nailed to the mast, and, there is therefore much less scope to be opportunistic or cynical. From this perspective, it makes sense, that the KDU-CSL turned down the opportunity to enter into a coalition with the Social Democrats, even though the consequences of that decision were the exit of the party from a place in Government for the first time in the Party's history.

The newer parties did not operate under such constraints. Nevertheless, their willingness to switch their positions on any issue began to have consequences. Even the usually docile Czech press (see Chapter Six) expressed a degree of alarm. Indeed, almost

⁴⁹ The Party was created in 1918 and even during Communism the KDU-CSL remained a 'parliamentary party'. The Party's website notes that although "The Communist Party became the only autonomous entity (after 1948). It allowed a few other parties to exist within the so-called National Front; however these parties held no real power and were created to provide an outward image of Czechoslovakia as a democratic state." (<http://www.czech.cz:80/czech/political.htm>). The elections in August of 1998 saw for the first time since its inception the vacation of KDU-CSL from a place in Government. The Czech Communist Party is the only Communist Party in Eastern Europe which retained its name after the events of 1989.

⁵⁰ Where the strongest party Klaus's Civic Democratic Party (ODS) had a membership of 22,000 in 1996, the Communist Party figure was over nine times that amount with a declared membership of around 200,000, the highest of any party in the Czech Republic. KDU-CSL had an 80,000 membership figure, the Social Democrats (CSSD), 13,000, and the Civic Democratic Association (ODA), 2,500. Figures from Lidove Noviny, 16th April 1996.

immediately after the post-election pact between Klaus and Zeman, the newspaper *Mlada Fronta Dnes*, commented ironically that, “for someone unfamiliar with Czech politics, they would never believe that one of the polite gentlemen had recently called his counterpart a thief and embezzler while the other had responded by saying that his rival wanted to drag the country back into the dark ages of Communism.” The paper concluded that “the magic potion of personal interests has however made them if not allies then at least fellow-conspirators” (*Mlada Fronta Dnes*, 16 August, 1998). Similarly, the newspaper *Zemske Noviny* noted that despite Klaus’s endless warnings about the dangers of voting for the Social Democrats it was, at the same time, “Klaus himself whose opposition agreement ... opened the doors to Cabinet Office for Zeman.”. The Paper complained, ODS voters read afterwards in the ODS election newspaper that the party had protected their vote. But these people voted for the ODS to stop the CSSD getting into power.” (*Zemske Noviny* , 16 August, 1998).

6.3 Structure and Agency

Political opportunities emerge out of a conjuncture of long-term and short-term ones. The sudden collapse of Communism forced parties to build distinct political identities from the top down. This, in a society where the alternatives to global markets and liberal democracy were, and still are, regarded as highly suspect, was the immediate structural context that the new Czech parliamentarians found themselves in and a key factor to the contentiousness of church restitutions. The longer time span preferred by structuralists is crucial to understanding the nature of the constraints and opportunities facing political elites. At the same time the political process described in this chapter points to the importance of giving

due emphasis to the choices made by elites within those constraints. In short, a focus on the shorter-term is unavoidable if one wants to know how and why and in what way elites take their chances.

Whether, at any particular moment, a greater emphasis on either structure or agency is called for can only be ascertained by close attention to the empirical case in hand. In the Czech Republic, for example, the model of economic development embarked on by the previous regime dictates that post-Communist political parties have no easily identifiable indigenous bourgeoisie with whom they can forge an alliance. Important too are the constraints of more recent institutions; for example, parties who wish to enter Parliament have no choice except to meet the 5% threshold established by the Constitution. Nevertheless, these constraints often hold out scope for creativity.⁵¹

To return to the central focus of this chapter, the strength of the first coalition Government ensured Prime Minister Klaus the opportunity to implement a range of policy choices, including, if he had wanted to, the return of property to the church. There was, in the early days of the first coalition, no great constraints either economic or political that militated against this as an option. Yet, Klaus chose not to do this. Ironically, in 1996, when Klaus changed his mind, committing himself wholeheartedly to restitution, it was in a context where the alternatives to this choice were far more limited.

Also notable was Klaus political style; there is no evidence that his elitist preferences and regularly belligerent approach was dictated by anything other than his own personal choice. It was Klaus's decision not to attempt to soften the animosity of the Social

⁵¹ For example, the period of Communism was extensive enough to ensure that, in most cases, even the basic building blocks of the old parties had been extinguished. Thus, in 1989, political groups had no choice except to build or rebuild their party machines virtually from scratch. Nevertheless within that context, ODA and ODS attempted different

Democrats by discussing with them the Government's intentions to return property to the church. Equally, it was his choice to announce the decision on restitution without any discussion with the religious bodies (CTK (Czech News Agency), 29 June, 1996).

This final point leads to the next chapter. Why were the churches not informed of important government decisions that affected them? Did the churches play a part in the debates about restitution, or was the outcome of the conflict over restitution wholly determined by political elites? The next chapter seeks to establish the extent to which the church was a part of the political process and the extent to which it was excluded. In brief, why was the conflict over restitution processed in the way it was?

Chapter Four

Church - State Linkages 1989-1998

1. Introduction

The preceding two chapters examined the position of the Czech Catholic Church with respect to Schmitter's first feature of civil society: independence from the state (Schmitter, 1997:240). It was argued that the church has gained a significant degree of independence since the collapse of Communism, an independence that nevertheless remains compromised by the failure of the church to secure economic freedom. It was shown that this failure to gain independence is the consequence neither of practical constraints nor of the sheer weight of tradition but is the outcome of contemporary political processes.

The present chapter deals with the second ideal typical feature of civil society, what Schmitter calls 'collective action' (Schmitter, 1997:240). Schmitter means by this that groups in civil society are "capable of deliberating about and taking collective actions in defence or promotion of their interests or passions" (240). The emphasis here on *debate* and *deed* has strong affinities with Hannah Arendt's understanding of autonomy. For Arendt, "the possibility of community is never simply given or essential to human beings but must, rather, be built by speech and action" (Disch, 1994:32) Freedom, Arendt writes:

is primarily expressed in action...[A]s related to politics [it] is not...a freedom of choice that arbitrates and decides between two given things...*Rather it is...the*

freedom to call something into being which did not exist before, which was not given. (Arendt, 2000:444, emphasis mine)

Contemporary understandings of autonomy echo Arendt's stress on the capacity not just to choose, but to create and act. Held, for example, argues that autonomy "involves the ability to deliberate, judge, choose and act upon different possible courses of action in private as well as in public life" (Held, 1987:270). Browning holds that "autonomy is the human capacity to exercise individuality and independence through making choices how to act" (Browning, 2000:161). Taylor insists that freedom is "self-direction, i.e., the *actual* exercise of directing control over one's life" (Taylor, 2001:205, emphasis mine). Kolakowski also focuses on "freedom of choice" (Kolakowski, 1999:5) and, like Arendt, makes clear that "freedom is not just the ability to choose between possibilities that are already given; it is also the capacity to create situations that are new and quite unpredictable" (Kolakowski, 1999:95-96).

These interpretations of freedom hold distinctly different concerns from the interpretations of liberty or independence discussed above in chapter two. Where independence or liberty is concerned with the extent to which one is free *from* others' decisions, embracing even the freedom *not* to act, the freedom under discussion here is of a more positive nature: freedom *in* action. In Eastern Europe, this idea of freedom *in* action has received less attention than the idea of freedom from the state, perhaps unsurprisingly so, for these were countries where for forty years citizens were directed "to what they should do, how they should behave, what they should believe in" (Czech Bishops Conference, 2000). As such, freedom *from* has gained a prior attraction over freedom *to*. Arendt, writing in the shadow of totalitarianism, noted precisely this tendency:

...to measure the extent of freedom in any given

community by the free scope it grants to apparently nonpolitical activities...Is it not true, as we all somehow believe, that politics is compatible with freedom only because and insofar as it guarantees a possible freedom *from* politics? (Arendt, 2000:442) ⁵²

2. Autonomy and Democracy

The aims of this chapter are to establish the degree to which the Catholic Church in the Czech Republic could be considered to be autonomous and to ask how the specific nature of the autonomy of the Czech Catholic Church can be explained. Before proceeding to explore these empirical questions, the following paragraphs attempt to clarify the relationship between autonomy and democracy.

One response to the question of the relationship between autonomy and democracy is to point out that autonomy and democracy are one and the same. The meaning of autonomy discussed in the preceding sections is equivalent to the core normative expression (or maximum definition) of democracy, since both mean to self-govern. Both concepts share a common appeal, for, “insofar as we are committed to democracy because we are committed to respecting people’s capacity to shape their own lives, our commitment to democracy and to a significant domain of individual freedom will share a common foundation” (Jones, 1995: 296).

If a commitment to democracy is necessarily a commitment to autonomy, there is still the question of what this commitment would,

⁵² Arendt’s understanding of freedom is also, as she points out “the very opposite of ‘inner freedom,’ the inward space into which men may escape from external coercion and feel free. This inner feeling remains without outer manifestations and hence is by definition politically irrelevant” (Arendt, 1968:440).

or should, look like in practice. Our support for the principle of autonomy, Held points out, “has to be linked to a diversity of conditions of enactment, that is, institutional and organizational requirements, if it is to be fully entrenched in political life” (Held, 1996: 297). How, that is, can a commitment to the autonomy or self-government of *each* civic group be practically reconciled with the autonomy or self-government of *all* civic groups? How is it possible to balance the multiplicity of preferences in modern societies? It is this eclecticism of social life that creates a conundrum for democracy, a conundrum found between the *ideal* of ‘a people’ ruling itself against the *reality* of a plurality of ‘peoples’. That there are competing notions of what is practically involved in the creation and shaping of one’s own life means that the success of one group in realising its autonomy may well involve the suppression of another group’s potential.⁵³

The following sections examine three discrete models that attempt to provide a solution to this democratic conundrum. Each model is formally committed to recognising the principle of autonomy, and each seeks to realise that principle in a different way. The first model seeks to do so by circumventing the democratic conundrum, the second by guarding against it, and the third by recognising and respecting it. The circumvention model is represented in the works of both Marx and Rousseau. Both posited the notion of a common and true interest, and by doing so both were able to claim that freedom for each and freedom for all were compatible. This common interest, Rousseau argued, could be identified by citizens who come to the decision-making process as abstract individuals able and willing to set aside their particular interests in favour of what is in the common good. In general,

⁵³ Of course, the idea that the conundrum is a problem should not be exaggerated, for if there were no plurality at all, there would be no need for democracy.

Rousseau anticipated few difficulties in the identification of such a general good for if the people genuinely and equally feel themselves to be a common or unified body they will recognise that what is good for the one body must logically be good for all bodies. (Held, 1995:56-62; Russell, 1961:660-674; Warburton, 2001:111-121). Nevertheless, Rousseau accepted that in some instances there may be disagreement over how to advance the 'general will.' In these instances, the majority will decide on the common good and those people unwilling to accept what is really in their interest, "will be compelled to do so by the whole body; which means nothing else than that [they] *will be forced to be free*" (Rousseau, cited in Warburton, 2001:115). The obvious problems with this are pointed out by Jones, who following Mill, argues that this "so-called 'self-government' may turn out to be the government not of me by myself but of me by everyone else" (Jones, 1995: 296). Yet, Jones suggests the dangers are even greater than that posed by what is effectively majoritarianism, for if individual freedom is only realized in a general will,

in which I share (even though I myself may mistake that will), why should it matter that I and my fellow citizens should be involved in the expression of that will? Perhaps a wise individual or elite will judge the common good of a populus, and therefore its general will, more successfully than the people itself. (Jones, 1995:297)

Just such a belief in an elite identification of 'the general good' were embodied in the institutions of Soviet communism by successive Marxists who shared the Rousseauian emphasis in freedom expressed in ends rather than means, in outcomes rather than action. Marx, like Rousseau, simply circumvented the democratic conundrum by dissolving its root cause, pluralism. In his account, pluralism or difference was purely the expression of a capitalist

order, the transcendence of which would be the dissolution of such difference. The true demos, the commune, was freed from conflict and thus freed from politics - that which processes such conflicts. With no conflict there was no need for institutions to mediate such conflict. In place of models of representative decision-making, Marx proposed ultimately only a need for management. Praising the model of the Paris Communes, he writes,

Instead of deciding once in three to six years which member of the ruling class was to misrepresent the people in Parliament, universal suffrage was to serve the people, constituted in Communes, as individual suffrage serves every other employer in the search for the workmen and managers in his business. And it is well known that companies, like individuals, in matters of real business *generally know how to put the right man in the right place*, and, if they for once make a mistake, to redress it promptly. (Marx, cited in Held, 1996:145, emphasis mine)

It is the dangers of the wrong man in the wrong place and the difficulties in redressing this that has led to a second model of democratic autonomy that recognises the undemocratic consequences of majoritarian or elite procedures, and consequently supports models of state-society relations that protect minorities and subgroups from other groups and individuals. This model recognises that “for those on the losing side, particularly if they are almost always on the losing side (as sometimes happens in ethnically or religiously divided societies), democracy may be as oppressive as any other form of rule” (Jones, 1995:297). Rather than negate the preferences of smaller social groups, liberal models of civil society seek to balance these preferences through the justification and protection of a public authority that can arbitrate between the

groups, order their interests, and ensure a level of stability.⁵⁴ This public authority is generally deemed the state. John Keane, for example, while insisting on the importance of an “independent civil society of autonomous public spheres”, warns that:

without the protective, redistributive and conflict-mediating functions of the state, struggles to transform civil society will become ghettoized, divided and stagnant, or will spawn their own, new forms of inequality and unfreedom. (Keane, 1988:15)

The importance of this second model lies in its recognition of difference and of the consequent practical difficulties involved in protecting civil autonomy. Yet, as argued in Chapter One, this *recognition* of difference often becomes an *anxiety* about difference and the need to guard against its dangers, for if society becomes, as Deakin asks “a vertical mosaic”, what then is to hold “the individual pieces in place?” (Deakin, 2001:71). In this model, difference certainly must be recognised, but that does not mean it has to be actively encouraged. Here, difference is treated like the poor, unfortunate, but always with us, and like the poor, it must be protected and regulated, for its own good as well as the good of others. While the formal concerns in the model are with the needs of the different, the substantive concerns are more regularly with the needs of the ‘undifferent’ - that public authority that is taxed with the burden of mediating difference. The emphasis on the needs of management produce a preference for diversity that can be mediated through the state, rather than expressed in civil society or outside the state; a tendency, as with Fish for example, to regard the key institutions of civil society as those that can “lobby state officials”

⁵⁴ Perhaps this is why Schmitter finds it necessary to talk not of independence from the state, but relative independence. (Schmitter, 1997).

and provide a “stable, organised representation of interests” to government. (Fish, 1996:272 and 268)

The third model is similar to the liberals in that it also sees a role for the state. However, it is a much smaller role than that advanced by liberals. Rather than overtax itself, “the state,” Hirst suggests, can be “a residual agency, responsible for those aspects of law and order that associations could not provide for themselves” (Hirst, 1995:92). The possibilities for associational autonomy are provided by those historical and empirical examples of ‘mutual extraterritoriality’ - “the parallel existence of self-governing communities sharing the same space but applying rules in matters of community concern to their members alone” (Hirst, 2000:117).⁵⁵ In terms of maximising autonomy, this model is significant because it points to possibilities of government in *civil society* and not through the state. Here, associationalists accept, “the need for some kind of organized government [but prefer] a decentralized system with limited powers” (Hirst, 1995:92). Through Hirst’s model we see that direct or indirect democracy does not have to be an either/or scenario. Too often in discussions we are told that it is not possible to have direct democracy. For example, Wolff argues “some have even argued that the only form of government consistent with due respect for autonomy is a direct democracy [but] *in practice, such a state would be impossible to achieve*” (Wolff, 1995:107, emphasis mine). Perhaps not, but there is of course no reason why we cannot have some. Direct democracy can be approximated under representative democracy through, for example, creating more opportunities for organisations to govern themselves. This is the claim of the Czech church who claim that their claim to control the church’s economy does not conflict with or deny the claims or autonomy of others. This

⁵⁵ Hirst gives as cases of mutual extraterritoriality the “Pillars system in the Netherlands” and the “Ottoman *millets* system” (Hirst, 2000:117).

is very much the model supported by the Czech Bishops, a model that they see as critical to autonomy. “We have not yet learned,” they argue

to draw a clear distinction between the state and its irreplaceable functions on one side and *civil society* on the other...non-governmental civic bodies support and develop human freedom and only in these forms is it possible to overcome the excessively enlarged and ill-functioning relics of the former totalitarian state. (Czech Bishops Conference, 2000: Section 30)

This commitment to autonomy receives support from the Bishops’ commitment to the principle of subsidiarity. In contrast to the collectivist arrangements of the previous regime where, “everybody and nobody was responsible at the same time” (2000:Section 31), they propose that “every level in the hierarchy of social life should act, as much as possible, autonomously and responsibly at it’s own level of decision making and ask for help from the higher level only if it has insufficient power to solve a particular task” (2000:Section 33). At the same time, the Bishops invoke a model of subsidiarity that can recognise the interdependent nature of social action. “The effort to develop responsibility, which respects the principle of subsidiarity, must,” they argue, “go hand in hand with the development of solidarity in minds and action ... Subsidiarity and solidarity are mutually interlinked. Only if they are balanced, can the common good be fulfilled” (2000: Section 33).

In sum, we can suggest two spheres for civic autonomy; first, civic action in spaces quite removed from public authorities, and second, civic action with, or through, public authorities. Eisenstadt’s discussion of civil society is conspicuous for its equal emphasis on both sorts of civil activity. On the one hand, he notes the importance of a “multiplicity of autonomous public arenas within

which various associations *regulate their own activities and govern their own members*" (Eisenstadt, 1995:240, emphasis mine). Yet he goes on to argue that:

It is not just the existence of multiple autonomous social sectors...that is of crucial importance for the foundation and continuous functioning of democracies. Rather, it is the existence of institutional and ideological links between these sectors and the state.

The most important of these links, Eisenstadt maintains, "have been the major institutionalized networks of political representation (legislatures and political parties)" (Eisenstadt, 1995:240). Despite the ostensible importance of links between the state, political parties, and civil society, many writings on the emergence of civil groups in Eastern Europe regularly fail to consider the *actual capacities* of these groups to have their voices heard at the legislative level. One reason for this is the tendency to place a stress on the quantity of associations as an adequate measurement or indicator of civil society. For example, the American institution Freedom House provides much useful comparative data on organisations in Eastern Europe, but because of its generalising aim does not set out to study particular organisations in any detail. Consequently, there is a lack of attention to the question of what it is civic organisations do, what links these organizations have with politicians and what role they play in the creation of government policy. (see for example Karatnycky et al, 1997:151, 339).⁵⁶ The lack of research in this area has been noted by Reschova and Syllova. In an article about the Czech Parliament, they write, "up to now, however, it has not been

⁵⁶ Karatnycky notes that in 1988 there were some 2,000 registered associations in the Czech Republic and nine in Slovakia. Less than eight years later these figures stood at approximately 27,000 and 10,000 respectively. (Karatnycky, 1997:151 and 339).

clear how different interest groups influence the parliament” (Reschova and Syllova, 1996: 91).⁵⁷

3. The Church’s Role in Decision Making

How autonomous is the Czech Catholic Church? To what extent does it govern itself? In Chapter two I pointed to the recent expansion of the sphere within which the church can act unobstructed by the state. Under the new democratic regime, priests and bishops can write their own sermons, organize meetings, teach, and appoint their own officers - all without having to seek approval from the state. In their own small domain of their life the church governs itself and is free. However, when it comes to participation outside of the religious sphere, within those spaces more commonly thought of as political or public, the church’s activity becomes far more contentious.

This section of the chapter is concerned with those public political issues that indisputably are of concern to the church: the debates about restitution, the development of a new church-state law, and the state’s relationship with the Holy See. The chapter seeks to establish what access the church has to Parliament and political parties; those political spheres and groups within which discussions take place about issues of direct concern to the church. The previous chapter concentrated on how the conflict over restitution of church property was conducted primarily between politicians, but made little reference to what role the church played in the various debates over funding or to the impact the church had, if any, on eventual outcomes. In this chapter I argue that the church’s impact on policy was, in fact, minimal. We cannot know to

⁵⁷ Their own article unfortunately throws little light on the topic. For example, they remark “trade unions did not wish to link their programme with any political party” with no accompanying attempt to explain why. (Reschova and Syllova, 1996:91)

what extent the results of the political battles over restitution would have been different if the church had been involved. Nonetheless, a consideration of how and why the church was kept out of the decision-making circles should throw some light on why the issues were processed in the way they were.

Part of my interviews with the Bishops of the Czech Catholic Church concerned their relationships with local politicians, and political parties (Appendix A). The Bishops in the regions outside of Prague described these relationships as local, irregular, non-institutionalized, adequate, often good, and occasionally productive. Bishop Koukl from Litomerice explained:

Official meetings are held on a higher level. In my diocese everything is on the local level. There are organ concerts. The relationship is more friendly [now]. People are closer to each other. But there are no institutionalized meetings...The relationship with local politicians is very good now. (interview, 1998)

Similarly, Bishop Liska from Ceske Budejovice said,

With State politicians, I personally do not get in touch very much. I get along well with those local ones, on the local level of town. And all problems are usually solved well. Of course those are people I know, whom I meet in mass, etc. But the same good relationship I have with the chairmen of all towns when I go to the dioceses. (interview, 1998)

Likewise, Bishop Lobkowicz from Ostrava commented:

My local politicians here in my town...I can say the relations between the mayor and me are good...(No) He is not (Catholic). He is from ODS, but he is a very nice man. No (He is not religious) he is very good, fine, but I think he is atheist, perhaps.(interview, 1998)

Bishop Hrdlicka from Olomouc:

Regular meetings are more on a social basis, than on some shared work issues. We meet rather on cultural occasions. And this relationship is correct and adequate.

But it could be much more fertile. (interview, 1998)

In sum, for the Bishops from the regions, contacts with policy makers on a national level were minimal and, where it did occur, was often of a social nature. Bishop Liska's description of his relationship with political parties at the national level was indicative of that general trend. Trying to answer my question of his relationship with parliamentary representatives, he described it in the following way:

I receive every year an invitation to the ball of some political parties. We then sit at the table and talk. Politicians do come here [to Ceske Budejovice], but they are not political visits - political negotiations. They are more likely friendly meetings concerning local affairs, but big politics they do not discuss. The Bishops Conference - Mr. (sic) Cardinal Vlk yes. [he discusses 'big' politics]. (interview, 1998)

Bishop Ljavinec's remarks also gave some indication of where decision making was centred in the Church. Discussing the Church's relations with politicians, he remarked: "Daniel Herman unofficially talks to people... and I should add not just on restitution but on other issues - only in a *private* sphere" (interview, 1998, emphasis mine).

The two local Bishops who might be expected to have wider political contacts were Bishop Duka and Bishop Lobkowicz. Duka famously once shared a prison cell with Havel, and is an ex-member of the Churches Triumvirate designed to consult with the Government on Restitution. Bishop Lobkowicz is a member of the

Lobkowitz family, a prestigious Czech family from the old Czech nobility. These two younger Bishops had a greater interest in, and a more detailed grasp of, policy issues than their colleagues. Yet, while it was clear that they had broader political connections, these connections were nevertheless similar to those of their colleagues in that they too were of a private and personal character. And while the more friendly style of meeting at the local level was perhaps adequate, it clearly had its drawbacks when it came to contact with national politicians. Bishop Lobkowitz had a number of political contacts:

It is the case that I know several parliamentarians. On the social level it is very good. I meet Ministers, they are very good and friendly - informally. It is just coincidence that also my brother is a member of Parliament. And the member of the Parliament of this region I know many years, his mother I know, his son, but I mean it is more personal than structured. So it depends on the Bishop on his personal relations.
(interview, 1998)

Yet at the same time he went on to complain about the “many questions that need to be solved” and remarked, with visible frustration:

I asked already three times the new Minister for Schools for a meeting - Eduard Zeman - and twice at the last moment he said “Excuse me, we have to find another time.” I had stopped all appointments for three days in order to travel to Prague. (interview, 1998)

The sense that relationships with politicians depended ultimately on personal contacts was affirmed by other Bishops. Bishop Duka remarked, rather sadly: “The relationship that I had with the previous government I do not have with the present one. The whole

government changed. My friends, friends from the underground, are not in present government” (interview, 1998). And Bishop Hrdlicka explained: “It is more a matter of human relationship - the ability to have a dialogue, to show a good will. The present Minister of Culture has very negative attitudes towards the Church. The previous one was a believer. So the differences occur here” (interview, 1998). The matter was summed up by Bishop Maly:

Unfortunately, in our Republic, institutionally, there does not exist anything which would organize meetings of the politicians and the church hierarchy. There are individual contacts on the basis of the wish of one of those sides, but there is no structure for this meeting and that is, I think, a pity, because it would be good if there would exist some kind of platform where politicians would meet with the representatives of the church to discuss the matters of society. Of course it is not a matter about who is going to win the mighty fight, but politicians aren't interested in understanding the voice of Bishops of churches. (interview, 1998)

The lack of institutionalised powers for the church had its effects in other ways. To return to the issue of restitution, it is clear that the Catholic Church's capacities to pursue what Schmitter describes as its “interests and passions” (1997:240) are greatly weakened by, on the one hand, the lack of an institutionalized relationship between the national church and the Czech State and, on the other hand, the lack of an institutionalized relationship between the Czech State and the Vatican. The church was given little if any space to contribute to official attempts to resolve the conflict over Restitution. In the period of the first post-Communist Government, a state-church commission had been planned to discuss questions of the financing of churches. The Churches had nominated three members, Cardinal Vlk, Bishop

Duka (who at the time was Fr. Duka, the Provincial of the Czech Dominicans) and Pavel Smetana, the Senior of the Protestant Church. However, as Bishop Lobkowitz explained to me:

They were never put together, this commission does not exist until now ... always there was such a political unwill to discuss this and perhaps I can say, it was the position of ex-premier Klaus. It was a political unwill to solve, to resolve these questions. (interview, 1998)

Bishop Koukl supported this view: "there were some attempts to make a committee, state - church. But Klaus always refused" (interview, 1998). Almost one year into Klaus's first period of Government, the church, gradually becoming aware of the real distinction between "freedom from" and "freedom to," had begun to make public its concerns. In a statement they declared that it was not enough just to legalize the Churches' activities. They were concerned, they said, that they had not been allowed to participate officially in a democratic decision making process which affected them greatly and asked at least to be consulted before any final verdict on restitution was announced. (reference? March:1993). By 1997 concern had turned to more pointed disapproval with the Cardinal publicly criticizing Klaus's Government for failing to engage in direct talks with the Church on the restitution of lands and building seized by the communists. (The Tablet, 8 Feb:1997). By the time of my interviews with Church leaders in November 1998 the situation had not improved. With a clear air of grievance, Bishop Ljavinec, complained: "they need to talk; not the Government coming and saying this is what we are going to do ... The Catholic Church was disregarded in these discussions," (interview, 1998).

The issue of Restitution has attracted more media coverage than any other 'religious issue'. Yet, many of the Bishops were anxious to draw me away from this question focusing instead on the

wider question of the institutionalisation of church state relationships. Daniel Herman was keen to explain that restitution was not the most important issue; the most important issue was to work out a general model for church state relations:

For us it is not the main question, the restitution of the property. For us it's more important the principles...the legal recognizing of the church. The economic independence its very very important, but if it is based on the restitution or on the rent from the property which will be not restituted - it's for us not the main question. It's only practically the model - this [church-state] model must be developed. (interview, 1998)

Bishop Duka agreed:

This problem has to be approached in the context of a new tax law which would give the church access to certain resources [the plan that people should be able to earmark part of their taxes for church purposes].⁵⁸ It is also connected with the proposed new protection of Monuments Law envisaging a new form of cooperation of government, town halls and church, in salvaging the cultural heritage. These laws could be more important for the church than the restitutions of her property in certain respects. (Esras, 1993b)

The church's capacity as a political actor was also greatly limited by the poorly institutionalized relationship between the Czech State and the Holy See. The Czech case is an anomaly in Eastern Europe; Poland, Hungary, and Slovakia have all concluded treaties with the Vatican, yet negotiations in the Czech Republic have not begun. (The

⁵⁸ The Klaus Government was entirely against the proposed provisions for earmarking taxes.

Tablet, 8 February, 1997). Daniel Herman explained to me how vital it was to have this matter resolved:

We - the church in the Czech Republic - are only part of the Universal Church. And we are not the [sole] makers of the legal system of the church. The maker of the state's law in the Czech Republic and the maker of the church law must discuss with one another. We, or the Czech Bishop's conference are not [solely] responsible to discuss with the state about this Canon Law. (interview, 1998)

4. Explanations for the Minimal Role the Catholic Church has had in Policy Making

The Czech Catholic Church has had, and continues to have, a negligible involvement in discussion and decision-making at either with the state or in or through those conventional of 'political society.'⁵⁹ There are a number of possible explanations why the Church has little influence in the major policy decisions that affect them. These explanations can be divided into cultural arguments which see the legacy of Communism as the main causal factor, and structural arguments which place a greater emphasis on the legacy of the recent 'transition'. The following sections seek to establish whether these explanations can account for the limited participation of the Church in policy-making arenas.

⁵⁹ Casanova, for example, differentiates the "polity" into "three differentiated arenas: the state, political society and civil society" (Casanova, 1993:61). See also Cohen and Arato (1992), Chapter One.

4.1 Cultural Argument: The Communist Legacy of Weak Organizations: Distrust and Anti-Politics

A common explanation for the weakness of organizations, where weakness is measured by low visibility in the policy making process, is a communist legacy of public distrust in organizations and a distaste for politics. The argument here is simply that post-communist civic organizations are weak because they cannot attract members because people are suspicious of them. Cook, for example, in her research on workers' organizations, argues that, "although Solidarity generated enormous respect in Polish society, for workers generally, there is a feeling that trade unions are too remote and untrustworthy" (Cook, 1995:115-118). Similarly, Olson remarks that in the Czech Republic, "not only political parties, but any form of voluntary group organization, is now distrusted" (Olson, 1997:153).

The explanation for this state of affairs is firmly located by various commentators in the not too distant past. Olson argues that "an anti-organization inheritance" is one of the major legacies of communism. (1997:153) Smolar similarly maintains that "everyday life under socialism taught people to survive as individuals and to fear any association with independent collective action" (Smolar, 1996:33). And Toth argues that, "the way that organizations operated (such as the official women's organization and the trade unions) made people distrust organizations of all kinds" (Toth, 1993:220).

Certainly, the rush to join organizations was lower than that expected by many jubilant supporters of the new democratic regimes. Yet, there is little evidence to support the view that some essential *anti-organizational* attitude is the causal factor in the contemporary patterning of emerging organizations.⁶⁰ Indeed David Olson himself

⁶⁰ There has been a decline in the activities of some of the non-state organizations that were particularly active during the latter phases of communism; environmental groups and

notes that, “research on group formation and activity [in Eastern Europe] is only in the beginning stage” (Olson, 1997:157). In the case of the Catholic Church the argument of an anti-organization culture as a legacy of Communism seems to be of little value. Certainly, the number of people who claim membership of the Catholic Church is greatly reduced from its pre-Communist figure.⁶¹ Yet, the country’s 1992 census shows that some 40% of people in the Czech Republic identify themselves as Catholic. The Bishops were keen to *reduce* this figure to what they considered a more reasonable estimate of 5%, on the basis that the government figure of 40% was merely “a theoretical figure not expressing the real balance of forces” (Fr. Fiala, cited in Esras, 1993c). Nevertheless, the Government’s official statistics

peace movements are notable examples. Leslie Holmes (1997) concludes that, “The evidence so far suggests that [these] have in general become *less* active in early post-communism than they were in late communism” (1997:279). However, in the cases of the environmental and peace movements an anti-organization factor does not seem to be at work. A more compelling suggestion is that the ranks of these organizations were greatly depleted by the exodus of many of the more able personnel who took up positions in state administration or became professional politicians. (See for example Szacki et al., 1993) Interestingly, the opening up of the State also threatened the Church with loss of members. One of the interviewees for this thesis Vaclav Maly, a leading dissident under Communism, recounted in an interview with a Prague Newspaper that the most difficult choice he ever made was whether to remain in the Catholic Church or to enter politics professionally. (The Prague Post, 23 November, 1997). Most commentators would agree that Maly’s standing in the early days of post -communism was such that he could have commanded virtually any position in the new Government. An anti-organizational factor could be more at work in the case of feminist groups which received a particularly bad press after the collapse of the Communist State. Furthermore, the dominance of the State in these organizations and “ its particularly harsh stance towards any moves to develop autonomous women’s groups” left women in particular with “few political skills and experience in independent organizing” (see Adamik, 1993; Fodor, 1994).

⁶¹ Before World War II, a mere 5.8% of people in Czechoslovakia claimed to have no church membership compared to a June 1991 figure of 29.5% (39.7% in the Czech Republic and 9.7% in the Slovak Republic). The Catholic Church before the War had almost 11.000 members down by almost 3,000 to a post communist figure of 7,217,921. .Statistics from the newspaper Svobodne Slovo, cited in Peter Martin, (1991)

suggest that the public were not unwilling to be associated with the church, if only in a vague way.

The argument of an 'anti-organization culture' is moreover at odds with staffing levels, as distinct from numbers of 'believers'. Communism, unquestionably, had a deadly effect on recruitment figures, greatly weakening the organizational structure of the Church. Admissions to the few seminaries allowed to remain open were controlled by the state, thus keeping the number of personnel artificially low. The consequences of those policies are experienced in a very real way today. Eva Sharpova, a Czech journalist, described their effects in one of the religious orders. "The worst problem," she says,

is that they were deprived by Communism of an entire generation. The oldest of the active sisters are in their late thirties, the Mother Superior is over sixty, and the generation who would be in their forties and fifties, at the peak of their performance, is missing. (Esras, 1993a)

Communism also had the effect of thwarting the more common European development of having lay members play a more active role in the Church.⁶² Bishop Maly explained:

During the Communist period only the priests could do something in the church. The laymen saw only what was done around the altar and it led to a certain passivity of laymen. Everybody was, everything was, concentrated on the person of priest and only the priest was active in the church and it is necessary to change it, to give more space for laymen...in our country, the church needs above all better cooperation between priests and laymen.

⁶² It is common in the Catholic Church in Western Europe for some lay members to play a more active role, for example, distributing communion at the mass and sitting on finance committees, and other bodies.

(interview, 1998)

Fr. Miloslav Fiala shared this view: “There is a problem...we have not been sufficiently active in trying to engage the cooperation of Catholic laymen in social activities, in parish councils. The legacy of the past - the passive lay person still prevails” (Esras, 1993c). Though Communist policies had their effect on personnel numbers, it is difficult to sustain the proposition that an anti-organizational attitude inherited from Communism continues to weaken the church. All indicators are to the contrary. The Church appears genuinely content with its small but growing number of novices. Fr. Fiala, although concerned about the relationship between the church and lay people, remarked that: “there are 118 students of theology here in Prague at present and another 188 at Olomouc. These are respectable numbers, rarely attained between the two wars” (Esras, 1993c). Bishop Koukl discussing the impact Communism had in reducing the number of priests added “but we are fortunately growing since Communism fell” (interview, 1998). And Bishop Lobkowicz optimistically commented:

In the past during Communism, people always prayed for new vocations....but they [the State] would not accept them, because it was this *Numerus Clausus*.⁶³ Now it is really a miracle, because always the priest vocations came from Christian families and rich families. We have no rich families and no Christian families, and yet [nevertheless] we have our own vocations.” (interview, 1998)

Finally, as suggested in chapter two, Communism provided the Catholic Church with an opportunity to improve its standing in the

⁶³ The state allowed only a strictly limited number of students to attend the theological colleges

public eye. The consequences of this were apparent after the collapse of Communism when Tomas Halik was able to note with some surprise, “in spring 1990 the church had an authority in Bohemia such as it had never had for centuries and practically the entire Czech nation spent the Pope's visit as a big freedom party” (Reuters Eastern Europe, 16 May, 1995).⁶⁴ Studies by Gallup of many countries including Czechoslovakia showed religious belief in many countries closely paralleling that of Western Europe with an average of 49% of respondents describing themselves as religious and in the main Catholic (Associated Press, 30 October, 1990). Cardinal Tomasek was one of the most popular public figures in Czechoslovakia and, importantly, relations with the new political elites were good. The Church found that many friends made in prison or through organizations like Charter 77 were now either members of Parliament, some were even members of the new Government Cabinet.

A second strand of the Communist legacy argument proposes that organizations are weak because they are *anti*-political. The argument here is that the members of contemporary East-European organisations, because of the experience of Communism, shy away from being political and from engaging in politics. Andrew Green argues, for example, that “the deliberately non-political stance of associations, a direct result of the anti-politics attitude developed during the communist regime, effectively constrains the development of direct relations with political parties” (Green and Leff, 1997:75). And David Olson claims that the reason why “economic based interest groups have not affiliated with political parties, proclaim their lack of partisanship and seem reluctant to create even the impression of partisan preferences or actions...*is part of the rejection*

⁶⁴ Halik is a leading clerical figure, a former Secretary of the Bishops Conference, close colleague of President Havel, and a sociologist at Charles University,

of political participation in the communist period (Olson, 1997:160, emphasis mine).

Neither Green nor Olson offer evidence for these points of view. But, the applicability of the argument to the case of the Catholic Church is highly limited. The comments from the Bishops in the first section of this chapter demonstrate just how keen the church is to make contact with politicians. The leader of the Catholic Church, Cardinal Vlk, and the Spokesman for the Bishops Conference Daniel Herman, spend a large proportion of their time monitoring, remarking on, and countering statements from politicians critical of the church. Furthermore, the Catholic Church is an organization that has garnered resources and directed them towards political ends. The fact that it has in place a highly vocal press secretary regularly attempting contact with the press offices of the national and local papers is indicative of this. The Church has in place a structure strong enough to press legal claims, regardless of whether those claims are successful or not. For example, it has pursued a number of court cases and taken the issue of restitution to the European Commission. Finally the backing that any national Catholic Church has from the Vatican weakens greatly the argument of an 'anti-political' organization.⁶⁵

⁶⁵ The political power of the Vatican is however weakened by the lack of an institutionalized agreement between the State, the Holy See and the National Church. The Pope could appeal to Havel and make public speeches but without a place at the table in any negotiations there was no guarantee of the Holy See being listened to all. Nevertheless the Pope seems to have dedicated himself to using every possible opportunity available to him to raise the issue of the restitution of Church property. On a visit to Rome, in March 1993, Havel met the Pope and reported that the issue of restitution of property to the Catholic Church had been spoken of. The Pope said "I would like to stress the subject of the restitution of property unjustly taken by the atheist regime from the Catholic Church as well as from other Christian denominations and from our Jewish brothers," He asked Havel to hurry up the process of returning the property to these organizations (citation from Reuters Eastern Europe, 20 March 1994; see also The Tablet, 19 March 1994. When the Pope

The final 'cultural' argument that attempts to explain the weak communications between church and state is made by reference to the official policy of atheism pursued by the Communist State. Attention is firmly drawn away from the internal dynamics of organizations and focuses instead on the legacy of the communist attacks on religion. This legacy, it is proposed, impacts on the Church in two main ways. First, it has made people and politicians suspicious of the Catholic Church and of the Vatican. Second, it has made people ignorant of how religious organizations function in the modern world.

The explanation is a popular one among the Bishops. Commenting on the poor links between State and Church, Bishop Maly said, "Of course the politicians do lean on public opinion which was educated for three generations during Communism in prejudice against the church and that is why the institutional problem is not solved by now" (interview, 1998). And on the issue of a treaty between the State and the Holy See he remarked: "Ha ha, it's the same question, like before, bias in the minds of politicians and they

visited the Czech Republic in May 1995 he used the opportunity of a visit to Klaus to raise the question of property the Church had a claim to. (The Associated Press, 18 May 1995). In 1996, a pilgrimage of 5,000 Czech Catholics to Rome provided another opportunity to remind his followers of the outstanding issues between Church and State. He noted that outstanding issues of religious education in schools, the role of the Church in the army, the health sector and prisons needed to be resolved and appealed for the cooperation of political leaders. Listing the numbers of building and the acres of land that had been taken by the communists the Pope said that these were "indispensable for carrying out the pastoral activity of the church". (The Tablet, 22 June 1996). By 1996 talk of cooperation had turned to criticism. The Tablet reported that the Pope in his 1996 visit with Bishops had "deplored the failure of the Government to stabilize relations between the Church and the State, or to settle the issue of restitution of Church property confiscated" (The Tablet, 3 May 1997). In May 1996 amidst the controversy over St. Vitus Cathedral, the Vatican offered to take part in the negotiations with the state as a way, they suggested, towards overcoming tensions. (Luxmoore, 1997). However, without a formal arrangement between the State and the Holy See there were limits to the Vatican's attempts at involvement.

don't like to see Vatican authorities involved in this question" (interview, 1998). This viewpoint was supported by Bishop Liska who remarked: "Our public society is more handicapped from those 40 years of Communism than it admits. They kept.....they threw away the exterior form and kept in large amount the communist regime mentality against the church" (interview, 1998).

Politicians too point to the attitudes of parliamentary colleagues. Jaromil Talir from KDU-CSL, explained the obstacles to the creation of a Concordat or treaty with the Holy See in the following way: "this all comes from the conditions that they do not want Church to have this role in society of stating moral rules. And I think this is the reason why the stance of those parties to this problem is like this" (interview, 1998). And finally, Fr. Herman commented passionately:

So why? Because some members of our Government *don't understand* the style of church, or the system of church life. It takes time, they don't *understand* it. They know, or some of them understand the Church like an organization for the, I don't know, for the gardeners. But there is the diplomatic mission, the embassy of the Holy See. I don't, I can't *understand* how it is possible why they are not able to understand it but it's the reality. (interview, 1998)

There are good reasons why many of the Bishops might feel that a Communist inherited anti-Catholicism, or a lack of understanding of Catholicism, is behind the failure to have its outstanding concerns addressed. In the first instance there are good reasons (as discussed in chapter two) to support the church's assertion of "anti-clerical bias" in the restitution process. (Agence France Presse, 18 May, 1995). Furthermore, a number of statements by the Czech Prime Minister were, disquietingly for the Church,

suggestive of an anti-Catholic strain among the Republic's leading political party. One of the first of Klaus's remarks came in July 1993, on the occasion of a mass commemorating St. Methodius at St. Velehrad. (Pehe, 1994:19). On the same day, Klaus was attending the feast day of the reformer Jan Hus which the Government had organized to be on the same day as the St. Methodius celebrations. Czech Television gave four hours of live coverage to the Catholic celebrations at Velehrad. This caused a furious reaction from Klaus who, in an article for a leading Czech daily, criticized the broadcasts, alleging favouritism towards Catholics, and concluding that, "the Catholic Church has begun playing a role in society that does not correspond with its real standing" (Kettle, 1995:22; see also *The Tablet*, 31 July, 1993).⁶⁶ Church-State relations were once again on shaky grounds when Klaus described the Church as "a kind of Ramblers Association". (*The Tablet*, 30 October, 1993; CTK (Czech News Agency, 15 October 1993). He tried to salvage the ensuing political debacle by explaining that while the Church was necessary, "it should not play a dominant role" in Czech society. (Reuters Eastern Europe, 20 March, 1994)

On the surface of it there appears to be some evidence to justify the 'anti-Catholic argument' Nevertheless, it is important to guard against an explanation that proffers this as the single causal factor for poor Church-State links. While it is true that the Catholic Church out of all groups seeking the return of their property had the most to gain from restitution, it was not the only group that felt discriminated against. Restitution clearly privileged individuals and any claimant therefore that was an organization was more likely to lose out. Thus, although the church were the major losers in restitution, it would nevertheless be reasonable to assert that this

⁶⁶ The dispute was weakened by the release, in the middle of the dispute, of Government statistics showing that 40% of Czechs considered themselves to be Catholic.

was due to a bias against *organizations* as opposed to one directed solely at Catholics. Furthermore, where Klaus has criticized the Catholic Church, it is noteworthy that for the most part his remarks are directed not towards Catholicism *per se* but towards the possible role of the Catholic Church in Czech society. Klaus himself has attempted to make the distinction. In a radio interview he noted that the conflict over restitution is,

neither a question of Christianity or Christian ideals and values, nor of the good and the prosperity of society...It is exclusively and only a concern of property - and certain advantages, political and otherwise linked with that (The Prague Post, 2 June, 1993)

Finally, a glance at the wider picture shows that all groups in civil society, and not just the Catholic Church, experience difficulties gaining access to decision-making circles. (see for example, Novotny, 1995)⁶⁷ Both the media⁶⁸ and trade unions ⁶⁹ have been the subject of numerous attacks by Klaus in the period 1992-1998 with environmental organizations, his particular *bete noir*. Novotny's polemic against Klaus covers wide ground in his criticism of ODS' efforts to block access to Government by both individuals and

⁶⁷ Novotny notes however that "this centralisation and the excessive control of power was not an obstacle to the penetration by (certain) lobbies into the organizations of the state". He gives the example of Philip Morris Tobacco Company, Westinghouse Society etc. (Novotny, 1995:124-125)

⁶⁸ Klaus's first moments of a speech at the London School of Economics on 17 June 1997 were devoted to expressing surprise that the media were present and assembled in the first two rows. He apologised elaborately to the rest of the audience for having to lower the tone of this speech so that the journalists would be able to understand him.

⁶⁹ Green and Leff commenting on the endless conflict between Government and the Trade Unions note "it is clear that the point of contention is not individual policy disagreements, but the status of the unions themselves ... the domination of the CDSP by the government has meant that there is no effective institutional channel for pressing labour concerns" (Green and Leff, 1997:83). The CDSP is the Tripartite Social Partnership.

organizations. Noting the lack of decentralization to local government, the reduced role for “the syndicates and the professional chambers”, the tendencies “to control the media”, the refusal to appoint an Ombudsman, the attempt to “abolish the possibility of the control of the process of privatization by a tribunal and the possibility of the juridical control of its function by the public sector,” Novotny concludes: “the centralization exercised by the ODS of Klaus reminds us of the famous phrase ‘L’Etat C’est moi’” (Novotny, 1995:124-125). This is a view that receives support from Green and Leff. Their article is devoted to an analysis of the Czech legislative framework, a framework they argue provides little “outside access to the process of policy formation and implementation” (Green and Leff, 1997:78). They write:

The legislative process itself offers little additional access to the policy process. The opportunity for external input, which could occur at the committee level, is itself uninstitutionalized: involvement by outsiders occurs only by invitation of the committee majority, and is often limited to being present; only rarely does an outside actor have the opportunity to answer questions or provide information of any kind. (Green and Leff, 1997:77; see also Olson and Norton, 1996b)

4.2 The Structural Legacies of the ‘Transition’

The church’s inability to have an impact on policy making either through direct linkages with the state or via the influence of political parties is perhaps most usefully examined in the context of a politics of exclusion experienced by virtually all civic organisations in the Czech Republic. The success of this politics of exclusion, I argue, is ultimately explained by reference to the structural legacies of the

transition. As argued in the preceding pages, the prospects of a rational, coherent resolution to restitution were greatly reduced by the speed of the 'transition' and its impact on the parliamentary arena. This argument can be extended to explain the lack of access civic organizations have to the state, either directly or via the mediation of political parties. In the case of the newer political parties, the argument needs no revision to explain the paucity of links that parties have with social groups: the very speed with which Communism collapsed in Czechoslovakia, and the rapidity of the transition to a parliamentary democracy, did not give aspiring politicians enough time to develop constituencies within society. This readily accounts for the existence of parties like the ODS and ODA who have little contact with civic organizations and, in comparison with the Communists or KDU-CSL, a modest party membership.

One problem with this description is that it fails to explain why those parties that are not *new* parties, for example, the Communist Party or KDU-CSL nevertheless experience similar difficulties to ODS and the ODA in consolidating their constituencies. I propose that, in the case of these older established parties, the impact of the transition is relevant not so much for its impact on the parliamentary arena, but more for its impact on Czech social structure. Here, constituencies in Czech society which were once regarded as stable, have been thrown into disarray by the rapid change engendered by the events of 1989. Ransdorf, the Vice Chair of the Communist Party, commenting on the weak links his party had with trade unions remarked: "It is not so simple because this period of socio-economic change was a time of huge social transformation. Can you imagine that 40 per cent of people in our country changed their jobs?...So Czech social structure is not as in

other countries of Eastern Europe....not so settled" (interview, 1998).⁷⁰

Apart from the impact on electoral constituents, the de-structuration in society also has its effects on Communist party members, a process that has implications for the identity of the party itself. Almost as compensation for his party's failure to establish links with traditional worker groups, Ransdorf commented: "But we try to spread our influence in all strata of population. We have also many, many entrepreneurs in our structure because many of our members and former members of the party have no chance to survive only to become entrepreneurs" (interview, 1998).

In the case of a long established party like the Communist Party, it is likely that the effects of the speed of transition were first felt in the social sphere and then later in the political arena. Where the new parties began with uncertain identities and then went on to face the difficulties of establishing constituencies in a society suffering severe social dislocation, the scenario was the reverse for older parties. The older parties started with clear identities and a certain confidence as to their constituencies, a confidence that gradually became disrupted as the changes in society worked their way to the party level. On the whole this worked against the quick and easy formation of links between social groups and political parties.

This interaction between a shifting social structure and the speedy development of Parliament does much to explain the poor relationship the church has with political parties. Immediately after 1989 the most natural allies of the Catholic Church were the two

⁷⁰In the year between May 1994 and May 1995, the proportion of Communist voters who described themselves as workers fell from 22.5 per cent to 15.9 per cent, and as employees from 27.5 per cent to 14.3 per cent, while those above the pension age rose from 28.0 per

Christian parties: the Christian Democratic Party (Vaclav Benda's CDP) and the Christian Democratic Union-Czechoslovak People's Party (Lux's KDU-CSL). The Christian Democratic Party was a breakaway party from Civic Forum and, as such, was one of the 'new' political aspirants. It failed to survive, as did many of the new groups on the political scene across Eastern Europe; a weak party with few roots in society, it merged with the ODS at the end of Klaus's first election term.

However, the KDU-CSL, also a Christian party, had little in common with their namesake, the Christian Democratic Union (CDP). Far from being a new organization, the KDU-CSL has the distinction of being one of Czechoslovakia's oldest surviving political parties. Where other parties after 1989 had to re-evaluate the profile of their constituents, by all indicators the KDU-CSL were and are in a stronger position than other parties to maintain their traditional voter base. The supporters of KDU-CSL, unlike the supporters of the Communists, are less likely to be forced by a revolutionized labour market to radically rethink their social identities. KDU party membership has remained reasonably stable, and membership at the Parliamentary level was relatively untouched by the phenomenon of political tourism. Indeed, of all the Party clubs in the Czech Parliament KDU-CSL reveals itself to be the most stable, losing none of its parliamentary members in the lengthy period after the 1992 election which was characterized by endless splits and defections among parties. All told, the conditions described earlier as working against establishing linkages between parties and social constituencies were not relevant in the case of a party like KDU-CSL.

Nevertheless, despite forecasts of a mutually beneficial relationship, which to an extent were fulfilled in the early years of the

cent to a huge 59.1 per cent.' Figures from Rude Pravo, cited by Steve Kettle, 'Church-State Standoff' (1995a).

new democracy, the contemporary evidence is that both the KDU and the Church are anxious to annul any perception of a close relationship between each other. Jaromir Talir, KDU's ex- Minister of Culture commented:

I have to say that this problem is difficult for our party. Our political rivals are trying to introduce our party as a party which does not have any other political programs, just this. (interview, 1998)

And Daniel Herman, spokesman for the Bishops Conference explained:

You know this link (with KDU-CSL) is very very bad for us ... it is also based on experience...that to co-operate only with one party will be counterproductive... today we know that, but nine years ago, it was without any experience, any precedent. (interview, 1998)

Equally for Talir, KDU-CSL's efforts to represent the interests of the Churches had brought certain disadvantages:

When KDU pushes on this problem, its political rivals use this for its discreditation. In all elections all our rivals are saying to voters not to vote KDU-CSL, this is a party only for old people, for Catholics and they do not know anything else than to take care of the restitutions.(interview, 1998)

Conditions were good for the KDU-CSL for making links with groups in civil society; they were not one of the many 'new parties', nor were their constituents dramatically affected by the social upheaval wrought by the collapse of a command economy. The problem for KDU-CSL lay not with its own party identity but with the lack of identity for their competitors in Parliament who were struggling to build coherent party profiles. And what ultimately made

the creation of links between KDU and the church difficult was the energy devoted by other parties to portraying co-operation between the KDU and the Church in a bad light.

4.3 State-Church links: Politics in a Vacuum

Political parties in the Czech Republic are a weak means for organizations to have an impact on political society. Yet, this in itself does not preclude the possibility of an invitation from the state for organizations to participate more directly in the policy making process, either through the creation of Commissions or by representation on Parliamentary Committees. Throughout the Klaus period, initiatives in this regard were not taken in the Czech Republic. It is not possible however to attribute this to a broad-based political opposition to organisations. Virtually all parties with the exception of the Civic Democratic Party (ODS) were keen to deepen democracy by encouraging the development and participation of interest groups. In fact, the anti-organisation stance was only ever strongly adopted by Klaus. Klaus's views on politics are well known; he rejects civil society arguing that:

... we voted for something else. We voted for a democratic society whose bedrock is *individual* freedom...The advocates of civil society think it necessary to increase the role of direct democracy. I disagree (Havel and Klaus, 1996:18, emphasis mine)⁷¹

He has made the point clear elsewhere: "My polemic is about a market without adjectives, a standard system of political parties, without a national front or civic movements" (Klaus, 1994b). "It is only these [parliamentary] institutions", Klaus argues, "that can

⁷¹ V.Klaus in a discussion with President Havel aired on Czech Television on 25 May 1994. Reprinted in part in *Journal of Democracy*, 7/1 (Jan 1996) p. 18

represent us, the citizens, because we elected them in democratic election.” He then adds, somewhat rhetorically: “Should the state...allow people to sponsor non-profit-making organisations and be relieved from taxation and thus deprive the state of taxes that are truly beneficial for the majority?” (Klaus, 1994a). His goal – “to stop deep-rooted government interference in the economy, to block popular redistributive practices, to dissolve dangerous lobbying, rent-seeking, protectionist organisations and pressure groups and so on” (Klaus, 1991).

Klaus’s views are supported by Miroslava Nemcova, the ex-Minister responsible for church affairs in the ODS dominated governing coalition.

According to my belief, civil society arises from the voluntary and free want of citizens, who...with use of their own sources will try to somehow fulfil, organise and finance their goal. And this process starts by itself, without someone - the State - somehow instigating or putting in place this process. I think the Civil Society should come out from this, the free desire of citizens. *They should not strive for a part in State power.* State power arises from election, decisions of free citizens, who elect in a democracy democratic representatives. (interview, 1998).

Given the dominance of ODS in the Government from 1992-1997, Klaus’s efforts at translating his particular model of society into reality have been remarkably successful. ODS’ power to block moves to widen access to Government was unchallenged. Attempts by coalition or opposition groups to create opportunities for citizens or groups to air their concerns were persistently opposed by Klaus. Indeed, the coalition agreed on a number of occasions that the parties would negotiate on the church property issue but the ODS

lack of commitment ensured that the State-Church Commission rarely met.

5. Conclusion

“Democracy,” Dryzek and Holmes remind us “is not just something that arrives as a universal package in 1989, erasing the past” (Dryzek and Holmes: 2000:1044). “What democracy means in particular places depends to a considerable extent on the prevailing constellation of discourses, as well as the configuration of constitutional and material circumstances” (Dryzek and Holmes, 2000:1064). In Eastern Europe, the often undifferentiated category of civil society has increasingly become a prism through which researchers analyse the development, growth, and institutions of autonomous action. As a political idea, civil society is subject to significantly different interpretations about the appropriate relationship between the citizen and the state. In the Czech Republic this space for opposing interpretations is guaranteed by a constitution that dictates only that the state “may not be bound...by a particular religious faith”. An ‘active’ or ‘passive’ neutrality towards religious organisations is neither endorsed nor proscribed. As such, what state impartiality might mean in practice has become politically contested. In the case of church-state relations in the Czech Republic, success in applying the ‘passive’ approach is explained by political failure to make meaningful headway in the institutionalisation of a civil society; a failure that brought with it numerous attacks on many independent organisations, and not just the organisation of the Catholic Church.

This failure to strengthen Czech civil society is clearly located in the political program of the Klaus administration and their post-Communist concerns to limit power to the Parliament, and more

particularly to the executive, where they had a dominant position. Yet Klaus's success in achieving his program is more than simply ideological. The rapidity of the 'transition' disrupted the Czechoslovakian social structure. The resulting structural vacuum allowed the easy implementation of a radical ideology by a political entrepreneur who faced little opposition from parliamentary colleagues unable to find 'partners' in a post communist atomised society.

Chapter Five

The Catholic Church and the Spirit of Democracy: Religious Elites in the Post-Communist Czech Republic

1. Introduction

The fourth and final element of Schmitter's model of civil society is that associations "agree to act within pre-established rules of a 'civil' nature" and, moreover, that they practice this 'civility'". (Schmitter, 1997:240).⁷² Schmitter does not elaborate on the term 'civility',

⁷² The idea that 'civility' should be considered an element of civil society is a subject of debate. Hefner maintains that "democratic institutions ..depend upon associations and values more varied than those of philosophical individualism alone." (Hefner, 1998b:32) He points to other models that fail entirely to include any normative or ethical dimension on the grounds that in modern day pluralistic societies "no more than a proceduralist emphasis is possible" (Hefner, 1998b:31). Taylor remarks that "regardless of who is ultimately right in the battle between procedural ethics and those of the good life ...the retreat to the procedural is no solution to the democratic dilemma ... The procedural route supposes that we can uncontroversially distinguish neutral procedures from substantive goals. But it is in fact very difficult to devise a procedure which is seen as neutral by everyone...these principles can be realized in a number of different ways, and can never be applied neutrally without some confronting of the substantive religious-ethnic-cultural differences in society" (Taylor, 2002:102). Laurence Whitehead points out that those who do include the ethical dimension thereby "admit a third category of 'uncivil citizens' or persons enjoying political rights but not submitting themselves to the constraints imposed by 'civil society'" (1997:95). Perhaps, Whitehead's point can be addressed by the positing of civil society as a subcategory of associational society? At the least, it is more easily addressed by models such as Schmitter's which allow for civility to be treated as an ideal type. Apart from anything else a concern with ethical issues is necessitated by the fact that these ethical or normative questions have a key role in the constitution of organizations and how organizations conceive of themselves. For example, it is impossible to think of the environmental movement in terms of the 'rights' of cyclists versus the 'rights' of motorists.

adding only that it conveys “mutual respect” (240), an awareness, that is, of “the existence of the unit as a whole”, and respect for “the democratic process.” (247). This idea of respect is, I suggest, adequate to the task of covering the major, ‘alternative’ dimensions, or principles, of civility⁷³ that are emphasised by, for example, Shils in his discussion on public-mindedness (Shils, 1992),⁷⁴ Taylor on participation (Taylor, 2000), and John Dewey on pluralism and tolerance (Caspary, 2000)⁷⁵. In brief, it can be agreed that one cannot respect others if one is always motivated solely by self-interest, if one is permanently angling for a free-ride on the shared benefits or goods created from the efforts of others or if one refuses to admit or to recognise that others’ culture, values, and thoughts can be different to one’s own.

The central aims of this chapter are: to consider the relationship between civility and democracy; to establish whether the Catholic Church in the Czech Republic should be considered a ‘civil’ organisation and, if so, to ask how the civility of Czech Catholicism can be explained.

The environmental movement is not simply a rights based discourse. It is also an ethical discussion about our responsibilities to future human communities.

⁷³ See Orwin (1992) for a good discussion on the distinction between civicness and civility.

⁷⁴ Shils states “the attitude and ethos that distinguish the politics of a civil society is civility, i.e., a solicitude for the interest of the whole society, a concern for the common good.” (Shils, 1992:1). See also Sandal (1982); Walzer, (1983); MacIntyre (1981); Caspary, (2000); and De Toqueville,(1994). De Tocqueville argues, “citizens who...take part in public affairs must turn from the private interests and occasionally look at something other than themselves.”

⁷⁵ Dewey argues “To cooperate by giving differences a chance to show themselves...is a means of enriching ones own life experience...[this] is inherent in the democratic personal way of life” cited in Caspary, 2000:14. See also, Bohman, (1996); and Rouner, (2000).

1.1 Civility and Democracy

Democracy, it is argued, depends upon not only “practices and institutions” but also “certain ideas, sentiments, and habits” (Banfield, 1992:23). These sentiments and ideas are often referred to as the civic virtues, or civility, a commitment to the norms of plurality, trust, tolerance, and concern for the public good. (see for example Bellah et al, 1991; Etzioni, 1995; Sandel, 1982). The contribution of these norms to making democracy work are held to be their facilitating role in the success of collective projects enacted from various points in the political community. Obvious places for the origin of collective projects are the seats of Parliament or executive power. Authors such as Putnam and de Tocqueville emphasise the positive role of customs of civic involvement for the greater performativity of representative government (de Tocqueville, 1994; Putnam et al, 1993). They hold that, if prevalent in the citizen body, virtues of trust and participation help those who are charged with governing to carry out their tasks. It is, for example, simpler to carry out a project such as a census if people are willing to participate in the scheme, to fill in their forms and post them off. It would be tedious, if not impossible, if in every government project, the courts were the regular resort, as in the case of the UK poll tax, to secure an adequate level of cooperation. Evidently, as Tocqueville argued, a strong civic society can make for strong government. Yet, that said, it would be difficult if some individuals or groups always cooperated and contributed and others never did. It is far easier, Taylor argues, to make, for example, a commitment to paying one’s tax if you are confident that others are doing likewise. Taylor argues, therefore, that “free societies require a high level of mutual trust.” (Taylor, 2000:93)

Participation and trust oil the wheels of projects from above, yet these norms have, at the same time, functions broader than those that ultimately feed into the state or the realm of formal Government. The civic virtues also play their role in facilitating what Hall describes as societal 'self-organization' (Hall, 1998:54). Here, virtuous outputs are retained within the realm of civil society and feed back into the community, serving as a resource for projects of self-government. Indeed, trust, commitment, and participation are fundamental to these kinds of interaction since they lack that last recourse to violence or domination that underwrite the schemes of formal representative government.

If participation needs to be activated by trust - confidence that others will also participate - it equally needs another kind of trust: trust that there is a benefit in, or some value to be had from, cooperating or participating with others. People, Taylor points out, can hardly be expected to participate in decision-making if they believe that their voices are never heard and that their preferences never count. Trust certainly lubricates cooperation but it also needs a recognition of the reality of plurality. Taylor argues that:

If a sub-group of the 'nation' considers that it is not being listened to by the rest, or that they are unable to understand its point of view, it will immediately consider itself excluded from joint deliberation. A people must be so constituted that its members are capable of listening to one another...This demands a certain reciprocal commitment. It is the shared consciousness of this commitment which creates confidence in the various sub-groups that they will be heard. (Taylor, 2000:93).

Finally, this commitment to the views and interests of others requires tolerance, the inescapable accessory to the principle of

pluralism, which is necessary Banfield argues to “encourage...the making of concessions” (Banfield, 1992: xii; Hirst, 2000)

In sum, civility has a role in easing two distinct kinds of interaction; on the one hand, those “promises and commitments enforceable by law” (Sklar, cited in Stewart 2000:58), and on the other those promises made outside law, the making and keeping of which rely instead on “moral or social persuasion” (Stewart, 2000: 59). This second kind of promise is as crucial to democracy as the first because there are significant limits to the extent that cooperation and participation can be enforced or legislated for. And yet, without such participation, democracy is democracy in name only, in danger of becoming Rose’s “broken-backed democracy”; a democracy that is “inefficient and often ineffective, and supported by its citizens as a lesser evil rather than because it is good in itself” (Rose, 1998:5).

While the norms of plurality or tolerance were superfluous to the single culture of Communism, the norm of participation was, on the contrary, in high demand. In successive Soviet and satellite regimes it became the responsibility of *all* citizens to strive for the attainment of public goods. At the same time this summons to solidarity was empty of what Stewart describes as the dialogical requirements at the core of today’s participatory models (Stewart, 2000). Taylor’s dictum that deciding together means deliberating together (Taylor, 2000) was not relevant to the role of a Leninist state which dictated both the content of the common good and the means of arriving at it.

The legacy of this top down, elitist management is evident today. People did not trust each other under Communism and, in comparison to Western Europe, they do not trust each other now. (see for example, Rose, 1998b). This is the starting point for much sociological commentary on Eastern Europe. Sztompka talks of a

“culture of mistrust” that has developed in the post-communist societies of Eastern Europe, Smolar of the atomisation of society (1996:33), and Gellner of the “moral vacuum in the east” (1996:6) Many, such as Putnam, believe that this lack of ‘civil norms’ holds severe consequences for the reform of the region: “without norms of reciprocity and networks of civic engagement ... amoral familism, clientelism, lawlessness, ineffective government, and economic stagnations - seems likelier than successful democratisation and economic development.” (Putnam et al, 1993:183).

2. The Catholic Church: a Civil Organisation?

Can the Czech Catholic Church be considered a civil organization? Does it demonstrate those norms of reciprocity and degrees of civility that are argued to be lacking in the former Soviet Union and Eastern Europe. My research suggests that among the *elites* of the Czech Catholic Church, the answer to this question is yes. Czech Catholic elites demonstrate a strong commitment to the norms of plurality, participation, tolerance and the public good. The following section discusses the views of the elite on these issues.

2.1 Participation and the Public Good.

Monsma and Soper argue that religion typically “has a strong public facet to it” (1998:9) and is “concerned with the whole of life - with social, economic, and political matters as well as with private and personal ones” (Bellah *et al*, cited in Monsma and Soper, 1998:9). In this respect Czech Bishops are no different from their counterparts elsewhere in Europe in their desire to participate in the public realm. The objective of the Czech Catholic Church is, Fiala argued, to “function as an independent organisation looking after the needs of

her believers *and serving society as a whole*" (Esras, 1993c, emphasis mine). Like the religious organisations in the five countries of Monsma and Soper's study, the Czech Church has a keen interest in moving out of its privatised existence under Communism. "The church", Bishop Duka argued, "must appear as an institution that is non-partial, that turns itself towards any human. Then it is a question of its function in the educational and other facilities - medical facilities where we show that the church is open for every person, no matter if he is believer or non-believer, with no regard to nationality or race" (interview, 1998).

Alongside this desire to participate in the public, Czech Bishops also demonstrate a commitment to collective goods rather than purely personal interests. Again, there is nothing surprising in some of the Bishops' views which echo common church teachings. The Bishops' comments on the market, for example, were resonant with John Paul II's 1991 encyclical letter *Centesimus annus*. Bishop Hrdlicka argued: "I very much agree with the social teaching of the church...the market makes sense but the first value is the common good. Not only egotistical intentions but to guard solidarity" (interview, 1998). Bishop Koukl: "The church says that God gave the world to all humans not just one person. People are certainly different, with different skills, so there will always be some differences. But a person who has more should share this wealth with someone who has less." (interview, 1998). Bishop Maly: "The church has a chance to show that it is important to take care of weak, forgotten ones, the ones who are pushed to the side, who are not productive, who are not able to contribute to the state on its business profit. Also, this is the mission of the church, also by this the church can enrich the society and democratic life in our republic." (interview, 1998). And Bishop Lobkowitz:

The former Prime Minister sees the civil society only as a

market matter, it is very pragmatic. The President imagines civil society probably in a different way. And of course I would be probably on the side of the President, because it is hard to accept the life of society only in the pragmatic market economy, because you have to have on your mind also the ability of specific groups, what people are able to do. [The] view of the former Prime Minister [is] only the best ones can succeed and the rest is something like trash. (interview, 1998)

Finally, where the Czech Catholic Church is keen to be able to participate in the life of society, it is equally keen that others should also be able to do so. Fr. Herman, the spokesperson for the Czech Catholic Church argued:

We must support also the responsibility of a concrete human being, you know, because the communist system was without any responsibility. In the communist society everything was supervised or controlled by the state and there was practically no subsidiarity in the life of the cities or in the villages or parishes...you know to use my own responsibility in my own small circle of my life. (interview, 1998)

2.2 Recognition of and Commitment to Plurality

Monsma and Soper argue that, if “a virtuous people’ is essential for a successfully functioning democracy, any movements - including religious ones - that work to build up a sense of virtue or morality among the public and that teach respect for the welfare of others become crucial for a healthy democracy.” (Monsma and Soper, 1997:4). By these criteria, the Czech Catholic Church is certainly a virtuous organisation, yet as I suggested earlier, these virtues are not

sufficient to meet the requirements of modern democracies. The problem is that modern democracies have many groups committed to particular versions of ‘the public good’ or the welfare of others. Thus, the key democratic virtue is not *whether* one is committed to the public good but *how* one is committed. Modern democracies require citizens who can recognise the irreducible reality of pluralism, and who have the communicative abilities to negotiate between various versions of the public good. In brief, democracy ideally requires participants who have the skills to be able to engage in the democratic process, participants who are able, as Taylor argues, to deliberate together *before* deciding together.

If ‘virtuous organisations’ can be understood as an ideal type, and plurality one of its measures, the Catholic Church is, in general, a weak version of the type. The Catholic Church is formally a theocratic organisation, not a democratic one. “The Church”, as Cardinal Ratzinger points out, “does not find a source of its faith and structure from the social principles during each moment in history” but has “the duty to be a bearer of a superior faith.” (Associated Press, 18 November, 1995). As such, it is perhaps unsurprising that Catholic hierarchies are rarely regarded as the optimal arrangement for nurturing the ability to recognise and reckon with difference. This proposed inability to cope with difference might be expected to be more likely in Eastern Europe which missed out on the more radical impulses of Vatican II. The churches in Eastern Europe found themselves re-integrated into the church’s trans-national structure under the leadership of Pope John Paul, whose strategy Gill describes as “aimed at recovering a substantial portion of pre-Vatican II orthodoxy...and to reassert hierarchical control over a Church that had experienced increasing decentralization since Vatican II” (Gill 1998:177).

However, I argue that an inability to cope with difference is not the case with the Czech Catholic Church. My research shows that Czech Bishops have both a keen sense of what other values a productive commitment to participation or the public good might involve and an interest in developing these values within their own organisation. In contrast to an elitist notion of the 'common good', the views of Czech Bishops resonate with the processual approaches advocated by writers such as Bellah et al who hold that "the common good is the pursuit of the good in common." (Bellah et al., 1991:9). Bishop Maly argued, "before the revolution the church was the only official institution which could preach something other than what the official ideology was. Now there is a pluralistic society - spiritually pluralist - and Christianity is *one* among other offers - other spiritual offers and [we must] accept this position." (interview, 1998). A similar view was expressed by Fr. Daniel Herman:

I think that it is the church's politic to cooperate, to bring their own values to the common process, or to create, in cooperation with all people of goodwill, this mosaic of the life, *not* to supervise everything, but to cooperate, *not* to create their own catholic virtual world but to be a part of the normal life, of the normal society. (interview, 1998).

And also from Bishop Duka:

We have constantly to bear in mind that some six million people in this country are, partly at least, of a different persuasion and feel themselves represented by different forces. Today the political scene has become very diverse, different people prefer different political representatives, and also the church must act and plan in terms of a wider cooperation with non-Catholic churches as well as other social institutions in our

country. (Esras, 1993b)

Yet, not only were the Bishops keen to adjust themselves to the reality of their status in what is a predominantly atheistic country, they were also anxious to voice their support for pluralism as a good in itself. Commenting on the size of the Catholic Church in the Czech Republic relative to the secular community, Maly remarked:

We are a minority but it is sometimes an advantage to be a minority because we are not a dominating community but we are a community which can show another style of life, another style of thinking, another style of future communication. And in this I see a chance - because the path of the church is to accompany the society. (interview, 1998).

Bishop Hrdlicka: "No, it [religious education] is not compulsory, and we do not want it to be so strict. It is better to work with the freedom of the human, better to inspire him than to command." (interview, 1998). Fr. Daniel Herman:

Yes, sure, its [non-compulsory religious education] no problem. You know, *cooperate* with the society. Not to create own world. In *your* homeland [Ireland] its *absolutely* different, its clear, you have very different history. But its my *private* opinion, of somebody who was born and lived in a very secular country. I prefer to live in the atmosphere, in this secularism, than in one very very super catholic country. I prefer the atmosphere of freedom, of changing, of free changing of ideas. You know because when I will visit the church, I must know *why*. (interview, 1998).

And finally, Bishop Duka:

In the church schools, students - believers and non

believers - study and learn. It is the same with the staff which is composed of believers and non-believers. Students are taught from the beginning - tolerance, friendship, respect. The biggest strength is not in the level of education, not to be the best in giving the education but in creating the atmosphere among students. The relationship between students and teachers is different than in other schools. (interview, 1998)

2.3 Recognition of the Importance of Communication and Dialogue

In my interviews with all of the Bishops, references were persistently made to the importance of communication and dialogue. Bishop Hrdlicka explained that: "The church is above all, praying and encouraging their members to be able to enter a dialogue with society" (interview, 1998). Bishop Maly argued:

The church has a chance to show that it is possible to trust each other, that it is possible to communicate, because till now our society is very atomized, there are many groups with different interests, but there is no communication between different social groups (levels). They communicate only through the media, but not immediate. (interview, 1998).

Daniel Herman elaborated:

For instance here in the Czech Republic we have problems with some minorities - gypsies for instance you know - and I think that the role of the churches could be very helpful on this platform of dialogue and openness of the society for various systems and styles of life - the

culture of bridge. Bishop Koukl from Litomerice he has this commission for the pastoral service among the gypsies and I think that its very important too because the racism and the xenophobia among the Czech population is terrible. (interview, 1998).

Bishop Koukl: "Gypsies have 18 institutions, but do not communicate much. In Oser there was a Gypsies fair so they can get to know each other. This was organised by the church." (interview, 1998).

In 1994, partly in response to the Church of England's ordination of women, the Vatican issued, through the offices of Cardinal Ratzinger, a three page statement that said the ordination of women should not even be a topic of debate. Ratzinger wrote that the ban on women priests is "irrevocable, a doctrine...that has a infallible character." (Associated Press, 18 Nov, 1995). Czech Bishops have a different view however. For some in the country parishes, debates about the ordination of women and other matters did not hold any great interest but none showed any antagonism to a more open discussion of the issues. Bishop Liska noted: "These protests or criticisms in the fashion of Germany or Austria are not here. I am not saying there are no critical voices, that there is nothing to criticize, but mass or organized protests are not here." (interview, 1998). Similarly, Bishop Hrdlicka said:

Yes, they can [discuss different viewpoints] but in this diocese there never occurred any letter that would present feminism or homosexuality or a demand for ordaining women. No one from 2,000 people in our diocese who would be telling me that we should do something with this question...Maybe in Prague, maybe in Prague some people discuss it. In the Austrian church there is a completely different situation, absolutely

different. (Interview, 1998).

Nevertheless, Hrdlicka went on to note with some enthusiasm, "We are now preparing a big plenary assembly which will be a dialogue among all people from levels within the church." Bishop Maly explained the situation in the Czech Catholic Church as follows:

There is a polarization in our church too...I like personally the decision of Austrian Bishops to invite *all* groups of the whole church to a meeting and to discuss these question together. It is necessary to clear, to cleanse...but it is necessary to listen too. It isn't possible to solve it at once but not to exclude, not to judge, not to sentence. (interview, 1998).

In response to the comment that this view might be at odds with the Vatican, Maly responded:

It is a very difficult question - one must respect the Vatican decisions, but on the other hand, I would say these questions are alive and in the mind and thinking of believers and it isn't possible to say simply *stop it, stop it*. Therefore it is hidden and it continues to live and personally I'll aim for an open discussion for a patient discussion...I am not for the solution to hide those questions and to say it doesn't exist. (interview, 1998).

This point is supported by Herman :

There are some streams within the church; some streams are more liberal, some are more conservative. I think that it is correct that the streams exist in the church, but I think that it is very bad and sad that these two groups are not able to be in dialogue, you know. *What could we offer to the society when we are not able to live in a dialogue within the church?* I think that it's a very

counterproductive apostolate. I think that we *must* learn very much about the culture of dialogue within the church and I *hope* and I will *help* to this developing of this culture of dialogue. (interview, 1998).

2.4 Tolerance

The Bishops' understanding of the importance of tolerance was evident even in areas where values were very different. The Communist Party is an exceptionally isolated party in the Czech Republic, and Fr. Herman is one of the few public figures who meets with Ransdorf, the Party's Vice-Chair. When I asked Herman about this, he commented, "It's sure that for instance with the Communist Party it's very hard to cooperate but I think that also with these extremist parties, its possible to be in dialogue.... it is not the most important thing if do we agree to each other but to be able to be in dialogue." (interview, 1998). In similar vein, Bishop Lobkowicz argued:

I think these people who are criticizing the church they are looking for a dialogue ... This belongs to democracy; one says one opinion and the other can say a different opinion. It would be bad if on a certain point one side would like to speak and would not let the other side to express itself. If he says any other opinion different than mine I do not excommunicate him, I do not punish him or something like that. He can say his opinion but also *I* can say my opinion. *I* have a different opinion and have the right to express it as well. (interview, 1998).

And regarding differences within the Church, Bishop Duka remarked

There exists certain strains. None of us in the church are satisfied with everything. I will not be satisfied with

everything. The problem of a bigger, free discussion is created from the polarization into two groups. One is conservative that has tendencies fundamentalist. And the second, we can say has tendency to progressivism. Both groups are convinced that they want only good for the church. The disadvantage is that the fundamentalist group would convince others at any cost. The second group also thinks that it is being right, but is more tolerant. They do not condemn. (interview, 1998).

3. The Causes of Civility?

I have argued that the elite of the Czech Catholic Church display significant signs of civility. The following section attempts to establish why this is so. Why is this particular organization a 'civil' organization or, in more general terms, where does civility come from?

Attempts to establish the causes of virtue have tended to fall into two sociological camps. On the one hand, there is an emphasis on endogenous factors that focus on the structure of the organization or its professed ideology as an explanation of why a particular organization or association exemplifies civic virtue. In contrast to this approach, there has been a growing concern to highlight the relevance of exogenous factors such as the role of the state or other political and economic institutions, or indeed cultural factors, lying outside the association in question.

3.1 Organisational Structure

Since de Tocqueville, many have built upon his proposition that the norm of mutual respect derives from the associations of civil society, that in the act of association itself one learns the 'habits of the heart'

so essential to democracy. This basic premise that the civic virtues can be nurtured through the act of participation in public ventures has become an axiom of democratic theory. At the same time, the argument has failed to specify adequately what it is about associational life that can guarantee these functions. If it is the case that “associations instil in their members habits of cooperation, solidarity, and public-spiritedness” (Putnam et al, 1993: 89-90), an important and related question must be, “which kinds of associations do so, under what circumstances, and with what effects for the polity?” (Edwards and Foley 1998a:15).

The recent American revival of interest in these question has centred around the work of Robert Putnam, who is regarded as the pivotal author in the contemporary post Tocquevillian debate over what makes democracy work. Putnam’s research into the civic traditions of Northern Italy concluded that the cause, or source of civility, is trust. Individuals act civilly when they can trust, when they are confident that, their actions will be reciprocated by others. “It is necessary,” Putnam maintains, “not only to trust others before acting cooperatively, but also to believe that one is trusted *by* others.” Without trust, good will and joint action are unlikely. (Putnam et al, 1993:164).⁷⁶

If trust is the source of civility, this begs the question of trust itself. For Putnam, like de Tocqueville, the answer lies in associations, or what he otherwise describes as ‘networks of civic engagement.’

Networks of civic engagement facilitate communication
and improve the flow of information about the

⁷⁶ “In a world of saints, perhaps, dilemmas of collective action would not arise, but universal altruism is a quixotic premise for either social action or social theory. If actors are unable to make credible commitments to one another, they must forgo many opportunities for mutual gain - ruefully, but rationally” (Putnam, 1993:164).

trustworthiness of individuals. Networks of civic engagement allow reputations to be transmitted and refined...trust and cooperation depend on reliable information about the past behaviour and present interests of potential partners, while uncertainty reinforces dilemmas of collective action. *Thus, other things being equal, the greater the communication (both direct and indirect) among participants, the greater their mutual trust and the easier they will find it to cooperate.* (Putnam et al, 1993:174, emphasis mine).

Putnam notes that not all associations are equally good at facilitating communication. "A vertical network", Putnam writes "cannot sustain social trust and cooperation." "Vertical flows of information are," Putnam contends, "often less reliable than horizontal flows, in part because the subordinate husbands information as a hedge against exploitation." Additionally in vertical networks "sanctions that support norms of reciprocity against the threat of opportunism are less likely to be imposed upwards and less likely to be acceded to, if imposed." (Putnam et al, 1993:174).

It is then, the *quality of horizontality* that is key to the production of trust. And as such, Putnam, in his conclusion to his investigation into what makes democracy work writes, "membership rates in hierarchically ordered organizations (like the Mafia or the institutional Catholic Church) should be negatively associated with good government." (Putnam et al, 1993:175). And that, "In today's Italy, as in the Italy of Machiavelli's civic humanists, the civic community is a secular community." (Putnam et al, 1993:109). In sum, the deeper the communicative structure of an organization the greater the amount of trust between its members and the greater its capacity to produce civic citizens.

Putnam's work has been criticised for (among other things) neglecting the roles of the state and the public sphere (see for example Cohen 1999; Tarrow 1996). Nevertheless, his general proposition that the functions associations have for democracy depend in part on their internal structure is supported by some of his most trenchant critics. Cohen, in a view that has been echoed by many others, maintains that "only associations with internal publics structured by the relevant norms of discourse can develop the communicative competence and interactive abilities important to democracy." (Cohen, 1999:63). Given the broad consensus that democratic structures are decisive to the acquisition of democratic attitudes, it is not therefore surprising that many theorists attribute to the hierarchical, theocratic, male organization that is the Catholic Church a weak potential to produce individuals bearing the virtues described in the opening paragraphs of this chapter. Contemporary authors concerned with identifying the type of associations capable of fostering democratic virtues tend not to search among the traditional religions for support for their work.⁷⁷

Is Putnam right? Are 'hierarchically ordered organizations' sub-optimal producers of democratic virtue? Should they be "negatively associated with good government"? (1995:163) Do they breed distrust and intolerance? If so, how are the 'democratic virtues' of Czech Bishops explained? In the case of the Czech Catholic Church, Putnam's argument is supported by an examination of the way in which internal conflicts of the church were dealt with after the collapse of Communism. The major conflict within the Czech Catholic Church after 1989 was over the way in which priests and

⁷⁷ For example, Cohen contrasts organizations that produce "democratic competence" with "hierarchical, authoritarian association such as the Mafia (which) can easily generate skill in strategic action" and the Catholic Church which "can generate loyalty". (Cohen, 1999: 63).

Bishops were ordained under Communism. Under Communism, it was illegal for a priest or bishop to be ordained without state permission, and since many aspiring candidates were unable to get state approval, ordinations were often carried out in secret by Bishops either within the Czech Republic or across the border in Germany.⁷⁸ These priests and Bishops became part of what today is variously referred to as the Underground Church, the Silent Church, or the Secret Clergy.

A major conflict within the Church emerged early in 1990 when it was discovered that at least 200 of those ordained under Communism, both priests and Bishops, had been married, against the rules of the Roman Catholic Church.⁷⁹ The process of resolving this issue was begun by the Czech Catholic hierarchy but very quickly was taken out of the hands of Czech Bishops to be managed by the Vatican. Where most accounts of the resolution of this problem have tended to focus on the fairness or otherwise of *outcomes* my research was more concerned with *process*. Here, the course adopted by the Vatican was regarded by those involved as highly unsatisfactory. The willingness in principle of the 'secret clergy' to cooperate in an investigation quickly came into tension with the Vatican's demand for compliance, a model of conflict resolution which was strictly hierarchical and non-discursive. Fr. Kratky, one of the underground priests subject to investigation complained: "We told the (Vatican) Bishops everything they wanted to know but we

⁷⁸ For a long period only three of the 13 dioceses had Bishops as the Czechoslovakian State and the Vatican could not agree on the choice of candidate. Many of the hierarchy in today's Czech Catholic Church were ordained in secret, for example Cardinal Vlk, Tomas Halik, and Vaclav Maly.

⁷⁹ The Greek Catholic Church allows married men to be ordained as priests but not to be consecrated as Bishops. The issue was resolved, partly, by the setting up of a Greek Catholic diocese in Prague headed by Bishop Ljavinec (of my interviews) to which the Czech married priests were transferred to.

were not called to a dialogue.” (The Tablet, 28 March, 1992). A view echoed by Fr. Ventura:

All the steps he (Cardinal Ratzinger, Vatican head of the Congregation for the Doctrine of the Faith⁸⁰) has taken suggest a tendency not to talk about the problem - so what we are doing here right now (talking about it) is done against Cardinal Ratzinger’s wishes. (Esras, 1993o).

Most of the married clergy obeyed the Vatican’s instructions: first, to take a theological examination, second, to undergo re-ordination *subconditione*, third, to transfer to the Greek Catholic Church which allows priests to be married (a Greek Catholic Diocese was conveniently opened in Prague), and finally not to discuss the matter in public. A minority refused to comply and have built up a small, hardened, and vocal opposition to the Vatican’s solution. The married Bishop Jan Konzal, for example, describes the proposal to undergo re-ordination as an “insurmountable obstacle” (Esras, 1993e). For some, the order to be re-ordained is resented less for the affront to the validity of the original and secret ordination, and more for the manner in which the order was made. Fridolin Zahradnik, a married man, consecrated as Bishop in 1968, continues with his ministry and works with the groups he developed under Communism. Refusing to relinquish his episcopal rights, he insists that as long as Rome’s reasons for doubting his ordination are not explained to him he will continue to say mass. Zahradnik has actively campaigned for the rights of the ‘secret clergy’ and attended

⁸⁰ known by its old name ‘The Inquisition’ until 1964 and reinvigorated with John Paul II’s election to the Papacy, the role of the Congregation for the Doctrine of the Faith, is to restrain any revisionist or schismatic tendencies. Essentially, its aim remains the same as that of the inquisition, to stamp out heresy.

the 'Fair for an Open Church' at Salzburg under the banner, "The once Silent Church silent no more." (The Tablet: 16 May, 1991).

In sum, the major dispute that arose within the Czech Catholic Church post-Communism was managed by the Vatican authoritatively and non-deliberatively, spreading suspicion and frustration among those who insisted on having their voices heard. It seems that Putnam is right. His argument that vertical networks impede and disable communication and thus breed distrust is supported empirically by contemporary events within the Czech Catholic Church.

If the relationship between the Underground Church and the Catholic hierarchy ended here, this would seem to bear out Putnam's pessimistic view of the democratic functions of Catholic Churches. But there is more to the relationship than this. Once one moves on to the views of the *national* hierarchy, a different attitude towards communication with subordinates is clearly visible, an attitude that is moreover sharply at odds with that adopted by the Vatican. From the very beginning of the Vatican intervention, the Czech national hierarchy advocated a considerate and open approach to the matter of the 'underground priests' in the hope that "delicate cases" would be, in the words of Fr. Halik, "resolved amicably, if the Vatican shows humanity and understanding in dealing with them" (The Tablet, 20 October: 1990).

In the end, the matter, from the Bishops' point of view, was dealt with very poorly. Bishop Maly was strongly critical of the Vatican approach:

The communication wasn't so good. Above all the Vatican authorities issued guidelines and it was a mistake - and even Cardinal Ratzinger acknowledges it now - that these guidelines were secret. They were oriented only for Bishops and our diocesan Bishops had

them in their hands but they were prevented to show them to those secretly ordained Bishops and priests and to those people who were being touched by them. It was a mistake because when from the very beginning this question would be *open* and these guidelines would be *open* it could cleanse this tension...Bishops had to keep secrecy, to keep it in secret, and this secrecy working between Bishops and priests had the impression that our Bishops hide something that is against them and this tension increased, grew and grew and it was a mistake because the best manner to solve problems is to be open and not to hide and not to keep it in secret and it was a mistake. (interview, 1998).

Fr. Daniel Herman agreed:

Its really true, yes absolutely, this model was not optimal. Problem of communication ... this is also a question of empathy. I think that the Congregation [for the doctrine of the faith] or the Bishops conference in the discussions with these people must feel very very sensitive to what they suffered, and to speak with them in the atmosphere of brotherhood and not so directly. (interview, 1998).

Empathy with the Secret Clergy was also in evidence among other members of the Bishops Conference. Thus, Bishop Hrdlicka: "among them I have many colleagues and friends, who I esteem very much, they are very brave persons." (interview, 1998), and Bishop Lobkowicz "I have also in my town several of these men, I knew them all before and I know them as a people and members of the church, believers and we are all friends. I can say." (interview, 1998). This distinction between the attitude of the Vatican and the attitude of the national elite was clear to some of those most critical of the way the

secret ordinations were being investigated. For example, Ventura, one of the married priests under investigation, commented: "Archbishop Vlk and our Bishops greatly wish and try to help us resolve the situation." (Esras, 1993o).

I suggest that this complicates greatly Putnam's contention that "the basic contrast between horizontal and vertical linkages, between 'web-like' and 'may-pole-like' networks is reasonably clear" (Putnam et al, 1993:173). Just where in an organization hierarchical relations break down and more democratic ones begin is a crucial issue in assessing the possibilities of an organization's actual or potential contribution to the elaboration of civic norms. If the line of command in the Czech Catholic Church begins at the Vatican and moves down to the disenfranchised priests, it is clear that this line of command encounters definite points of resistance. The Czech Bishops' Conference has adopted a strongly reflective and critical attitude towards the organizational structure with which it has so recently become re-united, and not only with respect to the married priests on whose behalf the Bishops have acted, but on a range of other issues. For example, Fr. Herman told me: "During the last adliminal visit of our Bishops in Rome this September they spoke, they discussed about it with the chief of the Faith of the Congregation - Cardinal Joseph Ratzinger" (interview, 1998). Herman also remarked: We [the Czech Bishops Conference] are preparing now the plenary council of the Czech Catholic Church. We will create here really the platform of the dialogue. Surely these very living or sensitive questions must be opened in this process of the council of the church here." (interview, 1998). Similarly, Bishop Maly commented: "there are groups which would like to discuss more about questions like the ordination of women, the celibacy of priests and the direct election of Bishops etc" (interview, 1998). And Bishop Lobkowicz expressed the hope that "perhaps the church of the future

will be less clerical, more civic. The role of a priest or religious man of the consecrated life is great and it will be always here. But perhaps in another measure".(interview, 1998).

The crucial point to be drawn here is that it is important neither to predict nor read action off from the official non-democratic theocratic form of the Catholic Church. Indeed differences in attitude amongst Catholic organisations on a whole range of issues from homosexuality to democracy show that we cannot always derive the actions of catholic elites from the structures within which they are embedded. Yet, this is precisely the assumption of Putnam and a host of others working in social capital research. There are two reasons for rejecting such a strategy in the case of the Czech Catholic Church. First, the Czech Catholic Church is a case of an elite that has been separated from its organisational structure for a substantial period of time. Second, the vertical and authoritative dimension of organised trans-national Catholicism that Czech Bishops now find themselves a part of, is one resisted by them. Certainly, as Putnam argues, vertical authoritative structures are *not* conducive to discursiveness, but the traditional vertical structures of the Catholic Church held no place in the lives of the present day Czech Bishops when they lived under Communism and their impact today is uncertain and contested. We can conclude that the search for factors responsible for producing the demonstrated civility of the key figures of the Catholic Church should *not* seek a cause in the Church's official internal structure.

Where then do the civil individuals that head the Czech Catholic Church come from? I suggest that a useful beginning is to distinguish the history of *individuals* from the history of their *organisations*. In short, if networks and structures are held to have a pedagogical effect on 'their bearers' there is no reason why the relevant organisational structure has to be the one in which the actor

is presently embedded. Putnam does not separate out actors from their networks and therefore fails to create the space to consider the effect of other structures or networks within which actors may have been engaged. In short, we should consider not just an actor's association *but also an actor's associational history*. The organisational structure of the Catholic Church may well not be conducive to the building of social capital. Yet religious organisations are not necessarily the sole organisational experience of the clergy. In the Czech case, Bishops and priests lived their lives in alternative networks and organisations whose potential as sources of social capital should also be taken into account.

3.2 Historical Structures and Networks

The distinguishing experience of Czech Bishops in comparison to those in neighbouring countries was in the degree of religious oppression they suffered. Czech Bishops lived under a regime that, since 1968, regulated and subjugated the churches (in particular the Catholic Church) to a far greater extent than in either Poland or Hungary. In Czechoslovakia, there was substantial resistance to the state authorities and a large underground Church existed; this was not the case in Hungary. Vajda and Kuti argue that, "Hungarian churches traditionally carried favour with the government. The rest of their credibility was lost when they were ready to cooperate with communist authorities. Hungarian citizens did not have an 'oppositional church' which would have preserved some basic values and would have represented and protected their interests." (cited in Deakin, 2001:16; see also U.S. News and World Report, 25 August 1986). In Poland too, although the Church resisted many aspects of state policy, there was nevertheless a marked "willingness to make compromises and concessions." (Chrypinski, 1990:124). In sum, the

Polish and Hungarian experience was predominantly one of accommodation, an accommodation that ensured that Bishops and clergy were able to maintain their clerical circles and live their lives largely within a private religious sphere. This contrasts greatly with the Czechoslovakian case where clerical interactions were severely restricted. At a time when church-state relations across Eastern Europe were improving, Czechoslovakia was “distinctly out of step with its Communist neighbours”. The Irish Press noted that “Czechoslovakia’s Communist regime has strenuously escalated its campaign against the Church – especially the Catholic- and its followers. [There has been] a systematic tightening of administrative controls ...barring the clergy from carrying out its normal spiritual functions and rejecting the appointment of Bishops to long vacant dioceses”. (The Irish Press: July 26,1972).

In what follows I will suggest that a useful place to search for the production of the civic values of Czech Bishops is the variety of organizations and networks in which the Bishops were involved under Communism. The aim here is not to provide an in-depth account of the impact these organisations had on the Bishops, but to propose that there are a number of sites other than the church where the qualities of the Czech clerical elite were fostered. I suggest that these alternative sites of networks and organisations had a strong formative influence on Czech Bishops, encouraging values of tolerance, plurality, and public mindedness, in short, civility. These networks were both consciously political (secular and religious) and networks of everyday life.

Political	Secular: Charter 77	Religious: The underground church
Everyday Life	Work	Prison

Work

Most of today's Czech Bishops had their licences to practice as priests rescinded by the communist state and were consequently forced to seek normal employment. Priests were notoriously assigned some of the most unpopular jobs under Communism. For example, Cardinal Vlk worked as a window cleaner and Bishop Ljavinec as a street cleaner. Bishop Maly was employed as a boiler-stoker and also for a period of time as a night cleaner in the metro. This forced employment offered the Bishops an opportunity to meet people outside of the narrow confines of the church. For example, Maly's two fellow stokers also Charter 77 signatories, were today's Chief Rabbi of Prague, Karol Sidon, and the poet Andrej Stankovic. (Prague Post: 23 November, 1994). Yet, commenting on his work Maly extolled the benefits of losing his license to practice.

I am paid badly, but I live with the people...I ride trams and buses and have to worry about food, and I no longer live in the parish house isolated from the man in the street. Now I am the man in the street." (Irish Press, February:1985).

Reflecting on this experience years later, Maly said, "Living like this helped me to understand better the thinking and behaviour of ordinary citizens. *And it forced me to express my faith in a very civil*

way.” (cited in Dunn, 1996:41). This experience of ordinary life is greatly valued by today’s Czech Bishops. Herman argued,

they know this normal daily life. They lived before the collapse of Communism like workers or street cleaners and like normal people and I think that it was a time for them of the so called ‘University of Life’. These words were used once by Cardinal Vlk in one ceremony and I think that this personal experience is very important.
(interview, 2002)

And commenting on one of the most popular figures in the church, Fr. Halik, who worked under Communism with alcoholics, Herman remarked, “he doesn’t live in a virtual reality. He knows normal daily life.” (National Catholic Reporter, 9 Feb:2001).

Prison

It was not only through work that the clergy found an opportunity to meet and live with the non-clerical. Many of the key figures in today’s Czech Catholic Church were incarcerated for periods of time ranging from a few months to 15 years. There is ample evidence that these experiences offer a useful line of enquiry for investigating where Czech Bishops learned to trust, to cooperate, and to value solidarity. Bishop Otcenasek, who was imprisoned for 13 years, explained that in prison “it was strictly forbidden even to hear a confession, to baptise somebody, to pray together.” (Esras, 1993i) Mass was celebrated in the following way: “everybody in the cells ... had to pretend that nothing was happening, that some were asleep, others moving about slowly, so as not to arouse the slightest suspicion of the guards because all that was a punishable offence. Fr. Fiala describing his experiences in prison commented: “We were 28 in the cell, there was no mattress for me left so I had to lie on a sort of

bench, but it was quite an interesting school for me because there were many political opponents of the regime, they were interesting company...*one learned to pray, learned solidarity*" (Estras, 1993c, emphasis mine). And Bishop Duka discussing his prison term with the now President of the Czech Republic, Vaclav Havel: "In Plzen, in 1980-81, we spent a number of months together, my term was shorter than his, and our conversations took place within the framework of the so called prison university where politics, literature, philosophy, religion were discussed and I think some of these conversations are reflected in the last of sixteen "Letters to Olga" in which he discusses religious themes among others." (Estras, 1993b).

The Underground Church

Apart from the life of work and prison, priests were involved in underground religious networks. Again, the Bishop's comments reflect an appreciation for the experiences the restraints of Communism presented. Bishop Koukl: "Under totalitarian system I was making some spiritual exercises with other people illegally in the mountains. *So the bishop gets closer to believers.*" (interview, 1998, emphasis mine). Fr. Fiala discussing his time in the underground said: "It was a very interesting and adventurous life...we formed various communities, at work, in the places where we lived, in various areas of Prague and in the country...we remember those times fondly. We had fun even at work." (Estras, 1993c). And Bishop Maly remarked, "I was very involved in the work of the so-called underground church. I lectured, I organised biblical lessons ... I prepared couples for weddings, I said holy Masses. All the things that were impossible to do in churches I did in somebody's apartment. At the same time I had a manual job." (cited in Dunn, 1996:40).

Charter 77

Both Bishop Duka and Bishop Maly were involved in the Czech organisation Charter 77. Maly served as one of the Charter's spokespersons and set up its adjunct organization, 'The Organization for the Unjustly Repressed' (Vons), with the ex-Revolutionary Youth leader, Petra Sustrova. Charter 77 was the major, non-state, political secular organization existing in the Czech Republic after 1968. The organisation's aim was to secure the Government's observance of the Constitution, more specifically, that the Government should "honour its human rights pledges under the 1968 international covenants of the United Nations, which had been reaffirmed in the 1975 Helsinki Final Act and entered in the country's Register of Laws the following year." (Luxmoore and Babiuch, 1995:291)

These rather minimum aims allowed for people of diverse political persuasions and backgrounds to come together; first, the reformist Marxists expelled from the Communist Party after 1968, second, members of the repressed churches and religious associations, and third, playwrights and artists. Despite being a generally informal group, the organization's leadership structure nevertheless had a fixed rule that there be a rotating set of three spokespersons; one from each of the three groups - Marxist, Cultural, and Religious - that comprised Charter 77. This ensured that contrasting viewpoints were equally represented. It was an arrangement that the Catholic dissident, Nemcova, argued, turned the organization into something akin to a 'school of democracy.' "All statements had to be approved by representatives of the different streams, so they had to reflect shared purposes rather than particular interests." (Luxmoore and Babiuch 1995:293). And, "if agreement proved difficult, previous spokesmen were summoned ... to give help and advice" (1995:300.)

There was no reason why this ‘unity’ or plurality forced from necessity more than choice should generate anything beyond strategic calculation or inculcate any genuine feelings of respect or tolerance towards other members. At the outset this was the view of some of the participants. Benda described the unity of Charter 77 as “a defensive unity, a unity born of necessity which in its present form is incapable of achieving anything more concrete than it has already.” (Benda, 1985:120). Bishop Duka remarked that, “for many Christians the presence of communists in the Charter remained a problem” with the Christians convinced that the ex-communists would “just use the Charter as an instrument for their own return to power” (cited in Luxmoore and Babiuch, 1995:297). There were a great many differences among the members of Charter 77. Nevertheless, over time, communication between the organisation’s member began to have an effect on how they regarded each other. Sustrova argues that the need to reach a consensus on all documents that were released made “the absolute priority in Charter 77 - simple mutual understanding.” (Luxmoore and Babiuch, 1995:300). The initially pessimistic Benda found that “this unity among people of disparate opinion and background is a great forum of learning.” (Benda, 1985:120). And Duka noted that the suspicion between the Christians and the Communists lessened when “both sides had more experience of working and suffering together.” (Luxmoore and Babiuch, 1995:298)

4. Counter Arguments: Culture and Political Institutions

Thus far, I have argued that membership of an organisation or network is an important factor in developing the democratic virtues, but, in the case of the Czech Catholic Bishops, it is their experiences in organisations and networks *under Communism*, rather than post-Communism, which may have provided the more important civic

education. Before moving to a conclusion, there are two important counter arguments that need to be considered. These counter arguments are concerned with the role of culture, and the role of state and political institutions.

4.1 Culture

A substantial body of critique has begun to build in opposition to the emphasis on associational experience as the key to civic virtue. The central focus of this critique is that the broader political culture within which associations are embedded has been ignored. Authors such as Roßteutscher (2002) argue that rather than viewing civic associations as responsible for the development of a democratic culture, we should reverse the causal chain, and consider whether it is in fact political culture that impacts on associations. In sum, the argument is that associations are *not* constitutive of cultural values, they merely reflect or echo these values.

Applied to the case of the Czech Catholic Church, the argument might be that given the purported civility of Czech Culture there is nothing surprising in the civil views of Czech Bishops. Czech Bishops simply display the same civil attitudes as most other Czechs. *Czech Bishops are civil because Czech culture is civil.*⁸¹ The argument that Czech Bishops simply reflect dominant cultural values is an important one to consider. However, a consideration of some of the most controversial public issues in the Czech Republic suggest that in many instances the views of Czech Bishops do *not* mirror the dominant cultural views of the wider population. The Bishops' views are in fact *more* civil. Czech Bishops often seem to be

⁸¹ I am grateful to Karen Henderson who suggested this argument in response to a paper I presented at the Political Studies Association 2002. Her question was whether Czech Bishops are *liberal* because Czech culture is *liberal*.

not simply tolerant, trusting, or respectful of plurality and the public good, but more tolerant and more respectful than the broader society, as the following examples suggest.

Pluralism and the Gypsies

Between 1992 and 1995 twenty-eight Romanies were murdered in racist attacks in the Czech Republic. Racist attitudes in the country are consistently high. Polls conducted by Stem and the Institute for Crime and Social Prevention for the Ministry of Justice on attitudes among school students show that 80% of all students would mind living next to a Romany family. Nearly 80% would not like a Romany as a marriage partner, and nearly 30% would not like a Jew as a marriage partner. (CTK (Czech News Agency), 25 July, 1996). A poll at the end of 1998 by the Institute for Public Opinion Research showed that 36% of people admitted to being indifferent to displays of racial intolerance, while 6% of people said that they approved of such displays (CTK (Czech News Agency), 21 Dec, 1998). According to the news agency “only a tiny minority were in favour of more mutual understanding and communication or creating better conditions for people of other races and nationalities” (4 February, 1999). The number of deaths and attacks has been the source of comment by the European Union, yet there is little action by politicians, and little public pressure on them. In Usti Nad Labem, a town where 15% of the population are gypsy or Roma, a 2 meter high wall, approved by a majority of politicians on the local council, began to be constructed to separate from white Czechs an area mainly inhabited by the Roma. The European Commission called for the immediate removal of the wall. In response, Vaclav Klaus complained “I see walls in Northern Ireland which are far greater in significance

than that in Maticni Street, and no one threatens to expel Britain from the EU” (cited in *The Guardian*, 27 Oct, 1999).

Although I cannot counter these statistics on racial attitudes with ones specifically for the Bishops, it is relevant that the Czech Bishops have been an exceptionally strong voice against racism in the Czech Republic. Not only was tolerance emphasised by the Bishops in my interviews, but the Bishops are also actively involved in fighting against racism. In March 1998 the Bishops Conference issued a pastoral letter specifically addressed to intolerance against Racism. The Spokesman for the Bishops Conference stated “Racially-motivated crimes are becoming increasingly more frequent and the situation is unbearable. The Catholic Church realises that it must raise its voice,” (CTK (Czech News Agency) 13 March 1998) The stance of the Catholic Church against racism has drawn the attention of the European Union. Commissioner Van den Broek interviewed by CTK commented that improving the position of the Romanies was regarded by the Union as of key importance to the Czech Republic’s membership. Referring to the Bishops pastoral letter, he remarked, “We value the role of the church in the integration of Romanies,” and added “In general I think that the main participants in the civic society, and the church is undoubtedly one of them, play a great role in informing the public, highlighting the standards and values that unite us in the EU” (CTK, 26 May 1996)

Racism was again raised in the Bishops Letter on Social Issues in 2000:

Fear of foreigners predominates in the minds of a considerable number of our citizens. However the most serious problem in our country is the co-existence of the majority of the population and our domestic Romany nationals. The Churches emphatically warn against extremist groups who proclaim xenophobia, racism and

hatred against all who are 'different.' As a part of their responsibility for the life of society, the Churches consider *the protection of human rights as one of their priorities*. We call on legislators to gradually amend our laws so that they are in harmony with international conventions on human rights in every aspect. (Czech Bishops Conference, 2000:Section 61)

Prostitution and Public Goods.

A recent and controversial issue to emerge in the Czech Republic followed the publication of a report by the Czech Statistical Office on prostitution. The issue of prostitution gets very little public attention, but the report was requested by the European Union as part of a broader investigation into black economies in member and potential member states. The sex industry in the Czech Republic is poorly regulated making prostitution the most dangerous occupation in the country. Additionally, the failure to regulate the industry has made the country an attractive place for the illegal trafficking in women and children. Despite this, the issue receives scant public or parliamentary attention. The report for the EU was the first official in-depth description on prostitution showing it to be a massive industry. It appeared in the run up to the elections making it all the more likely that it would be buried quickly, and indeed it was clear that politicians were not going to commit themselves to the question. "It's a moral question more than a matter of legislation, so it is difficult to find a common position." said Ivan Langer, the deputy chairman of the main opposition Civic Democratic Party (ODS). (Prague Post, 10 April 2002). Against this background, Bishop Maly intervened in a manner that placed the issue squarely on the political agenda. Arguing publicly for the legalisation of prostitution,

Maly insisted: “it isn’t enough simply to moralize, to judge, but it is necessary to do something.” (The Prague Post, 10 April, 2002). Although Bishop Maly spoke as an individual, it was, as Radio Prague put it “no secret that many Czech Bishops are of the same opinion.” The radio station commented:

The fact that a dignitary of the Catholic Church should be the one to call attention to these issues – especially in pre-election time – is a slap in the face for Czech politicians ... Czech politicians remain at odds over whether or not prostitution should be legalised...but whatever their position, none of them have shown a serious inclination to take the matter further and act on it. (Cesky Rozhlas 7 (Radio Prague), 5 April:2002)

The Prague Post added, “If a good Catholic like Maly can summon the compassion needed to suggest the sex trade needs regulation, why, we wonder, do ostensibly enlightened national leaders idle?” (The Prague Post, 10 April, 2002).

These examples show that the values of the church do not reflect the dominant values of the broader society.⁸² The Czech Catholic Church is in fact critical of these broader values. This empirical critique aside however, the argument that associations reflect dominant values has further problems. If associations are held to be the mere reflections of the dominant culture, where then do those associations antagonistic to the dominant culture come from? How, for example, did Charter 77 emerge? How can we explain the existence of the Slovakian ‘Public Against Violence,’ or indeed the underground churches in Czechoslovakia?

⁸² There are other examples. The Bishops Conference has been an extremely vocal critic of the unregulated market and the “fundamentalist liberalism” that informs this failure to regulate in the Czech Republic. (See for example, Czech Bishops Conference 2000: Sections 19-24, 36-42, and 43-49).

Roßteutscher's argument is that her thesis applies only to non-political associations, not to politically active ones. Members of non-political associations, she argues, are more likely to uncritically accept the dominant message, whereas members of politically active associations are unlikely to do so. So far, so good. Roßteutscher's argument can provide an explanation for the conformity of many organisations, if not for political ones. But herein is the problem. How do we then explain the existence of those organisations who are *not* conformist, who do challenge dominant values? Where do these organisations come from? Why and how do they have different values to the broader culture. Where did the civic and democratic attitudes of Czech Bishops who grew up under Communism come from, if not from themselves and the associations they were part of.

4.2 Political Institutions: Parties and the State

A final counter argument to the associational explanation for the origin of civility focuses on the role of political parties and the role of the state. Putnam's bottom up approach to the question of the origin or creation of social capital has been criticised for ignoring these institutions. Indeed, Tarrow argues, the lack of state agency is one of the major flaws of Putnam's explanatory model; a model, Tarrow maintains, where "the character of the state is external...suffering the results of the region's associational incapacity but with no responsibility for producing it." (Tarrow, 1996:395). Tarrow's argument is that the state and political parties have both the potential to stifle associational capacities and the ability to develop them. Whitehead agrees: "There seems no strong reason either theoretical or empirical - for presuming the existence of only one strongly determinate relationship between civil society and political democracy" (Whitehead, 1997:104). A similar point is made by Hefner who insists that "cultural and organizational precedents

matter, and matter deeply [but] democracy and civility can be advanced through strategic interventions at any number of points in the democratic circle” (Hefner, 1998b:41).

Where these authors point to the importance of considering the civic potential of *both* state and civil society, Roßteutscher, on the contrary, is adamant on the greater importance of the state. Her argument that associations “simply reflect general trends” leads her to reject any reliance on them as something that could bolster or produce civility. This, she states, is “a waste of time and energy.” Instead, civic culture should be fostered by

the traditional instruments of democratisation: crafting good democratic institutions, demanding respectable and honest incumbents of political roles, creating social and economic environments that encourage civic attitudes, investing in education and political socialisation. (Roßteutscher, 2002:525).

The arguments of Robteutsher, Tarrow, Whitehead, and Hefner, suggest that, in seeking a cause to the demonstrated civility of Czech Bishops, the civility or lack of civility of other Czech citizens, we must not ignore the role that may have been played by the institutions of the Czech State, Czech Government, or Czech Political parties. Have these relatively new institutions, we must ask, been responsible for fostering, protecting, or nurturing the civility of the Church?

Roßteutscher’s emphasis on “good democratic institutions” (2002) is, of course, important. But what her recipe for civility fails to tell us is who will craft these good institutions. Who will demand that democratic institutions should be good? Who will demand political honesty? In the Czech Republic, to date, this demand has come primarily from civil society. Politicians have not sought to protect or nurture the virtues of their own institutions, and have not been

successful at protecting the civic community or nurturing civility among the post-communist citizenry. During his period in Government Prime Minister Klaus persistently blocked the creation of laws and the allocation of resources that would develop and protect the non-profit sphere and continually reneged on coalition party promises to work towards the creation of an Upper House and the appointment of an ombudsman. (Potucek 1999). Trust in political parties in the Czech Republic as a whole is low. Surveys show “widespread awareness of *elite* corruption - and a tendency to see it as worsening with democratisation” (Rose, 1998:15) Nearly 70% of people in the Czech Republic “think corruption among *public officials in national government* is worse than under Communism.” (Rose, 1998:15). In 1998, The Corruption Perception Index (CPI) of the non-governmental organisation, Transparency International placed the Czech Republic in 27th place out of 52 countries. It’s position has even worsened since then. A survey by The Central European Opinion Research Group in 2000 showed that 60% of people in the Czech Republic were “not satisfied with the functioning of democracy.” 67% felt that both the Government and Parliament acts “in the interests of” a “minority of the society” or “small groups only”, and 53% said that people like themselves could not “openly express their opinions on problems and negative social phenomena.”⁸³ A 2001 report from the Ministry of Justice showed that 26% of Czechs in 1999 thought that the Government of Vaclav Klaus was responsible for the spread of corruption in the country.⁸⁴

There are good reasons for these opinions. All parties in the Czech Republic have been involved in political corruption, and they

⁸³ Results can be viewed at the Research Group’s website on <http://www.ceorg-europe.org/topics.html>

⁸⁴ Both results reported by the Ministry of Justice at <http://www.mvcr.cz/korupceplneni/angl/zprava3.html>

have not supported attempts to 'legislate trust'. Nor have attempts to 'legislate trust' been supported by the politicians. For example, none of the parties supported President Havel's proposal to create a transparent scheme for party funding. Havel argued that, "such a system would ensure public transparency regarding the sources of party funds, and at the same time it could function as a professional tool to identify their trustworthiness." (cited in Potucek, 1999:106).

In sum, the institutions of the new post-Communist State, particularly during the Klaus years, 1993-1998, did little to inculcate trust or confidence. Whitehead is no doubt correct when he argues that there is no reason to assume the existence of one strongly determinate relationship between civil society and traditional democratic institutions. Similarly, Stolle holds that the sources of trust and cooperation are "multi-faceted and will not be explained by just one factor." (Stolle, 2000:10) Hefner agrees, insisting that: "no single 'determinant in the last instance' can explain the breadth of this diffusion [of civil ideals]." (Hefner, 1998b:40). Nevertheless, the evidence suggests that in the Czech case the key factors responsible for the development of civic norms are *not*, as Roßteutscher would hope, the new politicians and their institutions. The impetus towards civility comes, on the contrary, from those 'non-political' organisations and individuals in civil society; environmental groups, intellectuals, artists, and non-party public figures. On 23 July 1999, these varied peoples came together and formally announced the launch of a new movement 'Impulse 99' which called "for the development of a civil society and the rule of law." (Prague Post, 28 July 1999) 70,000 people came onto the streets of Prague supporting the organisation and demanding an end to corruption and an end to the Government's 'opposition agreement'. Tomas Halik, an ex-spokesman of the Bishops Conference was one of the key spokesmen

for the movement. The National Catholic Reporter summed up his influence in this way.

Particularly for educated Czechs, Halik has become a voice of reason articulating their concern over corruption at every level and bickering politicians more concerned with power than with public good. (National Catholic Reporter, Feb:2001)⁸⁵

⁸⁵This is an analysis that is lent support from Halik's standing in the public eye. A poll of public opinion in 2001 placed Halik 6th in the list of greatest living Czechs. Interestingly the poll placed Havel and Klaus equal first showing just how divided public opinion is.

Chapter Six

Conclusion

1. Introduction

This thesis set out to answer the question, why is civil society important for democracy? The aim of this conclusion is both to clarify and re-state the significance of each chapter's contribution to that answer and to indicate directions for further research provided by the thesis. The conclusions are drawn in relation to the themes that organised the main body of work; independence, autonomy, and civility. I also return to Schmitter's fourth element of civil society briefly discussed in Chapter One, the issue of non-usurpation. While the main focus of the thesis was the years from the rise of Klaus's Civic Democratic Party in 1992 to their defeat in 1998, the chapter introduces some new material relevant to the overall argument.

2. Civil Society Research

In Chapter One above, the two dominant contemporary understandings of democracy were identified. The first, Dahl's concept of polyarchy is a minimal account of democracy, invaluable for its methodological advantages over maximal and 'unworkable' definitions. The second was an associational conception of democracy, which seeks to sustain, improve, and deepen this minimal version, through the institutionalisation of a civil society. While these versions of democracy do not necessarily contradict each other, throughout the thesis there is a recognition that the minimal account of democracy draws from the normative core of a much

stronger version. As Antony Arblaster has noted, “at the root of all definitions of democracy, however refined and complex, lies the idea of popular power, of a situation in which power, and perhaps authority, rests with the people” (Arblaster, 1994:9). In theory, civil society is important within both conceptions of democracy. As noted in Chapter One, in the ‘really existing democracies’ we have today, civil society associations can have functions *for* democracy. Indeed, this functional underpinning is generally emphasised over the portrayal of civil society *as* democracy. In the latter case, the argument is that the possibilities for self-government (*demos kratia*) can be realized in the expansion of the capacities of the civic realm, rather than the institutions of representative democracy (Hirst, 1994; Monsma and Soper, 1997). Both the proceeding accounts provide an answer to the question of the relationship between civil society and democracy, yet, in both instances, the relationship is expressed in abstract terms. Moving beyond that abstract level to a grounded account of the relationship between civil society and democracy proves elusive in the context of the “many writings [where] the precise lineaments of civil society remain unclear” (Bryant, 1993:397). It is the persistently abstract nature of this relationship that provides the methodological point of departure in the thesis.

This thesis has addressed this excessive abstractness specifically through an appropriation of Schmitter’s ideal type model of civil society and its application to the emergence of one civic association, the Catholic Church in the post-communist Czech Republic. Schmitter’s model provides the possibility of moving beyond simply philosophical responses to the question of civil society’s importance for democracy. As such, the emphasis in this research is firmly sociological in that it attempts to arrive at an account of those factors causally identifiable for the democracy-

building nature of civil society and not just a description of civil society's role when it does occur.

3. Independence

A civil society cannot be held to exist if all associations and organizations are run by the state. Independence, or some element of it, is the constitutive feature *sine qua non* of any civil society, without which the question of civil society's functions for democracy cannot even be posed. In this regard, Chapter Two discussed the Czech Catholic Church's continuing economic dependence on the post-communist state. Ruled by the same economic laws it was governed by under the Communist regime, though freed from other interference by the state, the church's present economic status, dependent on the resolution of the restitution issue, prevents their ability to participate in civil society as they would wish. The desire of the church to be economically independent of the state, to manage, as Lobkowitz argued, "their own economy" (Chapter Two) is both practical and symbolic. Church restitution is not simply a question of the right to have rights, nor a question of the balance *between* rights and responsibilities. For the Bishops, it is also about the rights *to* responsibility - "to support", as Herman argued "the responsibility of a concrete human being ... to use my own responsibility in my own small circle of my life" (Chapter Five).

Such rights to responsibility have a hollow ring in the context of the Czech Church's continued economic management by the state and the failure of the church to retrieve its property. This failure cannot be attributed to merely pragmatic obstacles, for the description of such obstacles as pragmatic is often a political description. Moreover, as was demonstrated in Chapters Two and Three, judgements about the extent to which such obstacles matter

are also contingent on the political process, and changing coalitions of power. In the Czech Republic, economic independence for the Catholic Church is subject to the resolution of restitution, creating the possibilities for a meaningful rather than a purely titular independence. It is this that has made the issue of restitution so profoundly political, a point well illustrated by the remarks of the vice chair of the Communist Party: “We are not against financing the activities of churches, we are against the creation of an ulterior economic basis for political clericalism in the Czech Republic” (Chapter Two). The obstacle is not church independence, but the fear of what the church will do with that independence. It is not the status of rights that attracts opposition, but the power of rights. It is, as Klaus insisted, “exclusively and only a concern of property - and certain advantages, political and otherwise linked with that” (Chapter Four). Yet, Klaus’s concerns with these advantages have been exclusively with the advantages that might accrue to collective actors as opposed to individual ones (Chapter Four).

While the obstacles to restitution are clearly not pragmatic, but dependent on politicians’ preferences about restitution, a satisfactory explanation needs to focus on which political preferences prevailed in general. On closer examination, it was clear that party preferences on restitution were persistently trumped by other more important concerns. Party-building dominated business in and out of Parliament, and restitution was both the pawn and the victim of such pressures (Chapter Three).

Today, the issue of restitution remains unresolved. Following the election of the Social Democrats in 1998, progress on the issue looked more likely with the creation of a church-state commission in 1999. Subsequently, however, the failure to come to any agreement caused the issue to be dropped from the commission’s agenda at an early stage in negotiations over the new 2002 Law (Chapter One). The

obstacles to agreement were outlined to me by Klaus's chief advisor Jiri Weigl.⁸⁶

The other churches want to be paid by the state because they have no means ... so among the churches there are serious conflicts, they are not unanimous. The Catholic Church has one specific programme and strategy which doesn't take into account the means of the others.
(interview, 2001, emphasis mine)

The account is not entirely correct. The reality is that four of the smallest churches, including the Hussite church, in the more than twenty strong Ecumenical Council of Churches are opposed to ending the present economic arrangement. These churches have no restitution claims, and as such, their preferences are reasonable, given that without state subsidies, they might not survive. As a solution to this problem, the Ecumenical Council of Churches together with the Catholic Church have offered to create a budget from the restituted properties, a portion of which will go to the four churches that are opposed to formal economic independence. Whether or not this solution could work and would prove acceptable is perhaps less important than the contrast it offers to Weigl's response to the churches disagreements over pay:

but there is a problem, the catholic church ... *you can't have different regimes*, because the state is neutral in the religious affairs, so it can't support one religion and not the other. You can't pay Protestant priests and leave the Catholic Church alone. (interview, 2001, emphasis mine)

The emphasis in Weigl's response is not on the pragmatic obstacles to having different rules, but on his belief that it would be wrong to

⁸⁶ I had written to Klaus requesting an interview, and he asked Weigl to meet me on his behalf.

have different rules. Yet, this response, “you can’t have different regimes,” immediately raises the question, why not? Why not pay the Protestant priests if they need to be paid, and leave, as Weigl put it, the Catholic Church alone? Weigl’s insistence that “you can’t have different regimes” is echoed by many who fear that the granting of specific rights over general ones,

[not only] offends against the principle of equality ... but leads to fragmenting and divisive recognition struggles; and that consequently, in the absence of any clear principles of state intervention, differentiating citizenship will both appear and be arbitrary. (Stewart, 2001:200-201)

Yet, the argument that all citizens must be treated the same is deeply problematic, for what is the substantive model of which such citizenship should be based? To maintain the present model of church-state arrangements may meet the needs of the Hussite church, but not of the majority of churches. Alternatively, to propose a model that works for those majority churches will of course destroy the minor religious groups. It is clear from this example that if a differentiated citizenship “offends against the principle of equality”, a *non-differentiated* citizenship does likewise. It is for this reason that Stewart supports Pateman’s argument that “for citizenship to be of equal worth, the substance of equality must differ according to the diverse circumstances and capacities of citizens” (Pateman, cited in Stewart, 2001:197). Pateman was talking of men and women, but the same can apply to the religious and the non-religious, or in this instance, the Catholics and the Hussites.

4. Autonomy

Chapter Four argued that, while independence is a condition of civil society, this condition says little about the capacities of civil society to act. As Arendt pointed out, *freedom to* is not the immediate corollary of *freedom from*. Yet, the issue of an association's scope or abilities for action is a crucial one because independence as a status may be simply meaningless without a consideration of the question, *independent to do what?* (see Taylor, 2001). Arendt provided an answer to this question with the remark that, in addition to liberation, freedom needed, "the company of other men [and] a common public space to meet them - a politically organized world, in other words, into which each of the free men could insert himself by word and deed" (Arendt, 2000:442). In Chapter Four the poverty of this common public space was described with respect to the elites of the Czech Catholic Church. While the Bishops in the regions met with politicians, these meetings bore little resemblance to Arendt's 'politically organised world', but were in effect chance affairs, non-institutionalised personal encounters, that were subject to the whim of politicians as to whether they took place or not. The church found few opportunities to access or have an impact upon the policy arena through political parties, and, although a formal commission was promised between the church and state, the commission was never convened in the period that Klaus held power.⁸⁷

Against the literature that credits such failures of participation to the anti-political attitudes of the post-communist citizen, I have argued that in the case of the Czech Catholic Church, no such attitudes are evident. Far from it, for the Bishops in the Czech Republic are highly political and keen to be part of Czech public life.

⁸⁷ The commission was finally created in 1999.

Instead, the reluctance to admit the political participation of the religious lies not with the church but with those outside the church who think it inappropriate that the church should play a public or political role. This attitude is most clearly visible within the Civic Democratic Party (ODS), and is persistently espoused by its leader Vaclav Klaus who, though strongly committed to the rights of individuals, is deeply circumspect about the notion of collective actors and their claims to political involvement. This issue of the proper role of civic associations was returned to again in my interviews in 2001. Weigl, Klaus's chief advisor, described the ODS position in the following way.

Definitely interest groups exist, and those will influence the politics and politicians, but it should somehow be a standard type of interest ... lobby groups who come and they convince legislators, they convince politicians about their positions, and I think it's legitimate but I think they should not claim that they represent, *they should not claim to be a part of the decision making process, because they do not have the mandate.* (interview, 2001, emphasis mine)

Clearly, Weigl supports those rights of free speech and association which are the indicators of Dahl's polyarchy (Chapter One). Support for free speech, however, does not contradict the central thrust of his argument, which is to endorse the 'gatekeeping' role of political parties: political parties which can, as Fink-Hafner argues, "selectively strengthen or weaken the voice of interest groups in policy-making" (Chapter One). For Weigl and the ODS, it is the role of *politicians* and not of civic associations to decide what issues are legitimate and what concerns should be acted upon. Certainly, associations can voice their concerns and can attempt to influence politicians, but it is politicians who decide which issues to take up,

because *they*, and not civil society, are society's representatives. It is on this point that there is clear divergence between the views expressed by the ODS and those of the civil society theorists discussed in this thesis (see for example, Post and Rosenblum, 2002, and Diamond, 1996). For the ODS, the role of civic associations is to attempt to influence politicians but these attempts do not have to be regarded as important or even necessary. While Diamond's discussion is similarly cast in terms of influence, he argues the contrary case that "civil society *can, and ... must*, play a significant role in building and consolidating democracy" (Chapter One).

The view, however, that influencing politicians is the purpose of civil society actors is very limited and very limiting. It is a view that contrasts with the attitudes of the civil society actors in my case study. Where the civil society literature tends to privilege relations *between the state and civil society* (Chapter One), the members of the Bishops Conference emphasised the forging and strengthening of relations between themselves and other citizens in civil society (Chapter Five). The aim of the Catholic Church is, as Bishop Maly argued, to, "create communities of trust" (Maly, cited in the Prague Post, 23 November, 1994), to convince people, Fr. Fiala insisted, "that the church is a partner in the game, a voice to be reckoned with in the building of our society." (Esras, 1993c). Mention of the government or state was also absent in the Bishops' discussions about what might be considered their concrete successes. An example is Fr. Herman's discussion of the relations between Catholic Churches on the German and Czech border, and the potential role of the church in what he described as "the process of forgiveness with the German nation":

I think that in the process the church plays a very positive role because there exists a platform of meeting in the villages which were destroyed after the expelling of

the Sudeten Germans. ... There is a chain of forgiveness churches around the border and I think its a very positive sign. It's done, its created a pre-political diplomacy you know, and I think that its very important. (interview, 1998)

Of course, it is debatable whether a micro-strategy such as this could be either successful or significant,⁸⁸ but the point of the discussion here is not to debate the efficiency or usefulness of politics as practised by the bishops; it is simply to point out that that the political is not necessarily about, or even primarily about, influence. It cannot be captured by the language of the pluralist models into which contemporary authors on civil society too often lapse. Civil society does not exist solely to influence the government, nor can the activities of civil society associations be reduced to building links with the government or the state. While this point is true in the context of a nation-state context, it is especially relevant when politics cannot be confined to a particular territory, as is the case with the Sudeten Germans, a point I return to later.

The primary purposes and concerns of Czech bishops are not expressed by Rose and Shin's civic associations which "can link the interests of individuals ... with the actions of government" (Rose, 1996:261), or by Diamond's "channels other than political parties for the...*representation* of interests" (Diamond, 1996:231), nor by Havel's "strengthening relations between citizens and their state" (Havel, 1994:18). The Czech Catholic Church, while fully supportive of the new regime, does not see its primary role as that of a helper to the state or to elected politicians. The point is made perfectly clear in their social letter, where they emphasise the importance of drawing

⁸⁸ The efforts of the German and Czech Government to form a committee to discuss the expulsion of the Sudeten Germans reached an early deadlock over its inability to agree on who should be on the committee.

“a clear distinction between the state and its irreplaceable functions on one side and *civil society* on the other” (Chapter Four). Non-governmental civic bodies, they argue, “*support and develop human freedom* [and] every level in the hierarchy of social life should act, as much as possible, autonomously and responsibly at it’s own level of decision making” (Chapter Four).

At the heart of both the Bishops’ and Weigl’s remarks is a debate about the proper role of the citizen, a debate central to the literature on civil society and also to Schmitter’s third feature of civil society, “non-usurpation”. Schmitter’s condition of non-usurpation requires that associations, “do not seek to replace state agents ... or to accept responsibility for governing the polity as a whole” (Chapter One). One can agree easily with the necessity of this condition, for if an organization in civil society replaced the state, it could no longer be considered a part of civil society, and if an association colonised civil society from within this would destroy the very pluralism that is constitutive of the civic realm. Schmitter’s definition of non-usurpation is especially useful, moreover, because it allows for the possibility of distinguishing between the dangers of replacing the *state* and the dangers of replacing *government*,⁸⁹ while the emphasis in the literature is more typically on the dangers of replacing the government. Cohen and Arato, for example, write,

We do not see social movements as prefiguring a form of citizen participation that will or even ought to substitute for the arrangements of representative democracy ... Movements can and should supplement and should not aim to replace competitive party systems. (Cohen and Arato, 1992:19-20)

⁸⁹ The distinction between state and government is made in Stewart (2001) which discusses the theoretical and analytical losses deriving from the commonplace elision of the two terms.

The problem with such views lies not in the defence of representative democracy, but with the failure to problematise sufficiently the common assumption that there is some pre-given, widely accepted division of labour between elected government and the people. Without such a critical investigation, civil society actors are chronically vulnerable to the view that they are the government's 'little helpers', leaving more easily deemed as 'usurpation' attempts by civil society actors to 'take over' issues that the government claims for its own purview. The point is that, while there is much caution in discussions of civil society about the danger of organizations attempting to colonise or to replace government, there is far too little said about the attempts of the government to replace the people. Indeed, this is the concern of both Havel and the Czech Catholic Church in their criticism of the new 2002 Law (Chapter Two): that it seeks to inhibit the church's charitable work.

The contemporary debate on civil society does not give due recognition that it is not possible to decide once and for all where the line between the government and the people should be drawn. For these are political questions: it is an ongoing issue in any society how much the people should govern themselves, and how much the government should govern for them.⁹⁰ These questions are particularly salient in Eastern Europe where, as under Communism, there is a continuing struggle over the distribution of power between the people and the government. This is a point church representatives are well aware of, as evidenced in the remarks of spokesman Fr. Fiala.

She [the church] wishes to function as an independent

⁹⁰ Robbins recognises this in his comment on the public sphere that "no sites are inherently or eternally public. The lines between public and private are perpetually shifting, as are the tactical advantages of finding oneself on one side or the other." (Robbins, 1993:xv)

organisation looking after the needs of her believers and serving society as a whole. That scheme is at variance with the present balance of political forces in our government coalition. Some of them have lately argued that it is no business of the church to be socially active that her proper task is to look after the proper functioning of temples, places of worship so that the so called religious needs of the faithful may be satisfied. This in essence used to be the Communist argument. (Esras, 1993c)

If there is an assumption among civil society authors that the line between the government and civil society is one that can be unproblematically drawn, this is not the case with the bishops who struggled with this question in my interviews. In a discussion of the Polish church, Bishop Liska, commented

The church, must play a role even in the public life. Because it would be strange if the majority would be Christian, and it would not show in public life or politics... there are some excesses, but it does not seem to me that the church in Poland attempts to directly intervene in the political life. (interview, 1998)

Bishop Lobkowicz remarked,

I mean there are events where we have to say our word. Of course we do not want to involve us into a political scene, I mean elections ...we do not want to say you have to elect this party or that party, it is not our religious duty , but to say you have to be responsible for your citizenship, that is our duty. (interview, 1998)

Bishop Koukl:

The church must always be independent ... it is not good

if it is in any way connected to any regime ...but if it concerns the rights of citizens or people then the church can and should make these statements. (interview, 1998)

Bishop Ljavinec:

We have to be political because we live in society. (interview, 1998)

Fr. Herman:

I think that the main question is what do we understand as the politics. Is it a thing of the political parties, or is it a thing of the commonwealth, of the common good? When the church is a part of this civic society I think that she's responsible to say word, very clear word to the present situation. It would be very bad and counter productive, for instance, before the elections to say that it would be better to vote for ODS or ... so on. It would be absolutely incorrect. But to say this handling for instance is not moral, I think its normal. It's also in this mentality of cooperation, to help to the higher quality of the common life, not to be separated, not to live only in the sacristies. (interview, 1998)

Bishop Maly:

I do not think the church should play any political role at all, but it is necessary to notify that during the dictatorship every public speech that does not agree with the ideology of that dictatorship is big political. So in the past the church was doing a politic in this sense, because it protested against the ideology that was lying and did it publicly. In the free society the church does not have to fight with the dictatorship, but again every public speech, public voice of bishops to the social

questions is in this sense political as well ... [The church] should not depend on any political power. It should not promote only one political party, etc. It is not the church's duty... But the church should be able to express its opinion on the basic questions of the society... and that is political. (interview, 1998)

The significance of Maly's point that public comment by bishops is "political as well" is shown in the reactions of Prime Minister Klaus to the Bishops' discussions of the 'Sudeten question' with the German churches. Cardinal Vlk's visit to the head of the German Catholic Church and the church's apology for the Sudeten expulsions drew a furious response from Klaus who demanded to know whether Vlk had become the Czech Republic's new Foreign Minister.

What is at stake in the above example is captured well by Deakin in his question, "who has the responsibility of representing the common good ... and how can it be identified and legitimated?" (Deakin, 2001:82). Much of Chapter Four was devoted to an account of just why the ODS party, in the years 1992-1998, was so extraordinarily successful at monopolising that responsibility. Despite the preferences of other parties to share in the power of governing, the ODS majoritarian principles were secured by their abilities to control their coalition partners, allowing them an easy victory in the domination of the political agenda.

5. Civility

Chapter five discussed the fourth feature of Schmitter's model of civil society, 'civility'. This is often held to be the most important element of civil society, and, indeed, many claim it is crucial for democracy. Not only is civility necessary to the success of representative democracy, but it is also essential to the maintenance of a civic

sphere where self-government is made possible because of “spontaneous cooperation, governed by collective notions of fairness and just desert, not regulation or rules imposed by authority” (Deakin, 2001:60).

The norm or virtue of civility features prominently in many discussions of civil society but as something described and applauded rather than explained. Perhaps this is what explains the remarkable success of Putnam’s book, ‘Making Democracy Work’ (1993), which sets out to explain *why* people are civil. His explanatory model has now become so popular that his followers are frequently referred to as the school of social capital theorists. For Putnam, the source of civility is horizontal associations. Horizontal associational membership, the more the better (even in overtly non-political associations), inculcates values and habits critical for democracy:

When individuals belong to ‘cross-cutting’ groups with diverse goals and members their attitudes will tend to moderate as a result of group interaction and cross-pressures ... Taking part in a choral society or a bird-watching club can teach self-discipline and an appreciation for the joys of successful collaboration. (Putnam et al, 1993:90)

A host of studies have been built on this assumption, that cross cutting memberships breed mutual respect (Chapter Five). The difficulty with these studies however, is not in their emphasis on the importance of membership, but in the assumption that levels of civility should be derived from *extant* membership. Yet a methodological strategy that adopts as an indicator of tolerance the number of groups people are presently in, ignores an individual’s *associational history*. The Czech Bishops in this study learnt their values from the networks and associations they were part of under

communism. These values still exist, even if the networks and associations do not. Putnam emphasises the importance of horizontal membership over vertical ones. My argument is, that within a *formally* vertical or hierarchical organisation, such as the Czech Catholic Church, there may exist highly civil or 'horizontally inclined' individuals.

This leads to a second problem with Putnam and other social capital theorists: the rigidity of the organisations that appear in their studies. The Czech Catholic Church may be formally hierarchical but, as this research shows, the Bishops take a highly reflexive and critical approach to their organisation. In Putnam's model, there is no sense of the fluidity or mutability of organisation. Organisational hierarchies, however, do not just act upon their members, they are also resisted by them. Czech Bishops are not only committed to their own democratic values, but they are also committed to democratising their organisations (Chapter Five). The case of the Catholic Church in the Czech Republic proves Putnam wrong. Not only can Catholic churches be civil, they also have the potential to produce civil members. Furthermore their civility and reflexivity is visible within the civil spaces and publics that they are part of. This is illustrated well by events at only the second European Bishops' Symposium since the collapse of Communism, whose president for the first time comes from Eastern Europe - the Czech Cardinal, Vlk. The Tablet commented:

Perhaps the most remarkable experience of lay delegates at the European Bishops' Symposium was the unforced assumption on the part of the bishops that we had every right to be there and to take a full part in the discussions ... the generous and open atmosphere of the symposium allowed criticisms to be raised at a plenary session devoted to a reflection on the conduct of the

symposium itself. At that session, the responses of the laity were actively canvassed. The point was well taken that if the Church is to speak to Europe with credibility of “communion”, it must be seen to reflect communion in its own dealings. (The Tablet: 26 October, 1996)

Putnam (2000) argues that homogenous social groups such as the Catholic Church produce what he calls an “exclusive” type of social capital that has social effects that are “fragmenting, divisive and anti-pluralistic” (Putnam, 2000:475). My argument is that “exclusive” or what Putnam also calls “bonding social capital” cannot be regarded as the inevitable product or the necessary correlate of formally homogenous social groups.

A final problem with Putnam’s work is the assumption that “the interpersonal trust generated in face-to-face relationships [is] an instance of a more general impersonal phenomenon.” (Stewart, 2002:475). But Putnam fails to consider what it is exactly that generalises that social trust from out of those civic associations within which they are produced. Cohen’s answer to that question is the concept of the public sphere, without which, she argues “the discourse of civil society will remain hopelessly one-sided and analytically useless because it will not be able to explicate the complex articulation between social and political institutions” (Cohen 1999:59).⁹¹ This thesis has pointed to a number of civil publics - publics within civil society - that have allowed for the articulation of the bishops’ values between their own association and associations and citizens with which they coexist. One of these is the just cited example of the European Bishops Conference, another Impulse 99, and a third the commission for the Roma (Chapter Five). The existence of these civil publics however does not disprove the poverty

⁹¹ See Robbins (1993) for a range of interesting perspectives on the concept and existence of public spheres.

and lack of political publics - publics between citizen, party, and parliament - discussed in Chapter Four. Nor should the media reporting of the bishops views, for example on prostitution or racism, be taken as indicating the health or accessibility of the Czech media. Indeed, the parlous state of the Czech media should be, as Cohen's criticisms suggest, a subject of concern for anyone seeking to examine the relationship between civil society and Czech democracy. In the Czech Republic, the majority of media is owned by a few large companies with profit-driven agendas that keep "some papers seriously understaffed ... and investigative journalism in the Czech Republic limited to a few individuals" (Karatnycky et al., 2002:155). Recurring changes in ownership and direction and the chronically underfunded public media contribute to newspapers and radio lacking either identity or the resources to stubbornly pursue an issue of public concern. The sustained stance towards and pursuit of political corruption typical of papers such as the UK Guardian is rarely possible in the Czech Republic. Important stories are followed often with little consistency, dropped, or passed on to journalists in Germany.⁹² The Freedom of Information Law "does not specify sanctions for failure to comply with it and allows the government to set arbitrary fees for providing information".⁹³ In addition there have been successive attempts by politicians to interfere with the media. In 1999, the director of the public Czech Television resigned complaining that he was tired of political parties' attempts to control the news. The following year, employees at the television station occupied the premises for nearly a month, broadcasting their own programmes in protest at what was seen as the political appointment of a known strong supporter of the ODS party as the new Director of Czech TV, and that new director's subsequent appointment of

⁹² Private conversation with Kate Connolly, Guardian Correspondent in Czech Republic.

⁹³ See http://www.freedomhouse.org/pdf_docs/research/nitransit/2001/13_czech_repub.pdf.

Klaus's ex-economic advisor as his director of news. The Prague Post reported,

Thousands turned out daily to support the rebels, who ... in a culture of growing cynicism towards government ... were depicted as combating not only their bosses, but a whole political culture that polls suggest the public sees as wasteful, corrupt, and, worst of all, inept. Crowds demanding Hodac's [the new director] resignation formed in Prague, Brno and Ostrava. (Prague Post, 2000)⁹⁴

6. Directions for Future Research

6.1 Comparisons between Civil Societies

The critics of civil society are correct when they argue that the concept of civil society is vague, yet they are mistaken when they conclude from this that the concept should be abandoned. The development and application of ideal type models such as Schmitter's is extremely useful in analysing the emergence and development of actually existing civil societies. The advantages of the model for this research suggest the possibilities for some careful comparisons. It is typically assumed that civil society is more developed in some east-European countries and less so in others (see for example Ost, 1993:479-480). While this may be the case, the difficulty is that these assumptions are based on concepts of civil society that are often highly abstract, making it difficult to investigate the possibility that where civil society is regarded as poorly developed in one country, this may in fact only be true with

⁹⁴ The Prague Post, 'Toxic Television', January 3, 2000

respect to one of its characteristics. The approach adopted in this thesis allowed for the fact that the development of each of civil society's constituent characteristics could have unrelated causes. An especially interesting comparison, and one that has not been drawn, would be that of state-church relations in Hungary and the Czech Republic where post-communist arrangements with respect to religion appear to differ greatly. The contrast stands in need of explanation, given that both countries share a number of remarkably similar features: both have similar levels of socio-economic development, both are strongly secular, and both have majority Catholic religions. A comparative study could seek to establish why differences exist with respect to the following:

- Independence - the Hungarian and Czech Constitutions both endorse neutral state-church relations. However, in the Hungarian case, the interpretation of the Constitution has emphasised a positive neutrality which has resulted in a far greater degree of autonomy for the church than is evident in the Czech case. For example, a concordat with the Holy See was established in 1997, the army chaplaincy in 1994, and early progress was made on the issue of restitution.
- Autonomy - In comparison to Hungary, the visibility of the Czech Catholic Church is low. In the Czech case this was explained by reference to the political programme of the right wing party, ODS. But while relationships between the Czech ODS and the church have from the beginning been antagonistic, in Hungary the relationship between the Catholic Church and the right wing party Fidesz-MPP has been sympathetic and cooperative.
- Civility - Bishops in the Czech republic demonstrate a stronger commitment to the norms of civility than, I tentatively suggest, is the case in Hungary. The explanatory

factor may be the lower level of repression suffered by the Hungarian churches under Communism. The Hungarian Catholic clergy continued to operate within the structures of the Church, while in the Czech case the revoking of priests' licences and persistent arrests led to an early alliance with the largely secular and democratic anti-Communist movement.

6.2 Civil society and the International Dimension

This thesis focused primarily on the Catholic Church within the Czech Republic. However, it is also apparent that with respect to the Czech Catholic Church, issues to do with the institutionalisation of civil society cannot be confined to national territory. As Herman remarked in Chapter Four: "we are not the [sole] makers of the legal system of the church. The maker of the state's law in the Czech Republic and the maker of the church law [Holy See] must discuss with one another" (Chapter Four). Since the Social Democrats have come to power, this understanding has been more forthcoming, as expressed in the creation of a branch to the state-church committee that can address the reality of the church's international existence. An interesting direction for further research is posed by the country's imminent entry into the European Union and the extent to which this will shape the ongoing debate about the church's proper role and status.

Apart from such formal arrangements as that of the church-state commission, it is also clear that where the 'horizontal' level is concerned, a territorially defined civil society is equally problematic. What is especially interesting about the Catholic Church's activities around the Sudeten Germans is that it is an issue that spans two borders, a case of politics that cannot be confined within a national

territory. This is true of much civil society activity. In the case, for example, of global environmental issues, civil society actors rarely restrict themselves to a politics of influence over national government. At the most, this sort of 'linkage politics' is regarded as just one available strategy in a repertoire of political strategies, for there are limits to what can be gained from attempts to represent one's interests to the state if one's concerns are international or even global and the state's power is local. Yet this is an issue that remains largely unexplored in today's debate on civil society. Indeed, the development of some models of civil society actively obscure and close off the possibilities for this discussion. The concerns and operations of international religious communities, associations like Greenpeace or the virtual community of computer programmers who developed the Linux operating system (or indeed the Internet) are not adequately addressed by those like McFaul who describe as "a-civil" those societies where "a great many activities take place outside the state, but with no direct connection, indirect leverage, or even desire for connection with or influence over the state" (McFaul: 1993:3). Yet, attempts like this to define civil society proper need to proceed with care, for if, as Stewart argues,

the general goal of a transformative modern politics remains the pursuit of universal possibilities of justice, a necessary element in such a project is clearly a critical interrogation of the validity and desirability of privileging states as both arenas and collective actors in late modernity. (Stewart, 2001:128)

6.3 Democracy and Religion

Bishop Maly, one of the key spokespersons in the Czech's velvet revolution commented a number of years after the collapse of

Communism, “I will never enter professional politics. But that doesn’t mean that I am not interested in it ... A priest can be politically active, but without any function, *to show that it is possible to be involved without profiting from it*” (Maly, cited in The Prague Post, 23 November, 1994, emphasis mine). Yet, such possibilities as these for *non-profit* participation are commonly denied and often feared as the following comments from Klaus’s chief advisor demonstrates:

(On the notion that citizens have responsibility for others).

Public choice theory tells that altruism is just another way that you get another type of satisfaction ... If you distribute your wealth to the poor then you get a satisfaction which other people get from hoarding money. It depends on individual preference and people choose what’s the best for them.

(On the disagreements between Klaus and environmental groups) Communism won such enormous support, not from certain layers but among intellectuals because of this very sophisticated and logical altruistic argument which backfired in such a way... the environmentalists behave in this manner “Let’s ban this, let’s ban that, we should stop this, we should stop that” Both [Klaus and Environmentalists] address different type of motivation and generally the most effective way of achieving some social benefit is to motivate people to do something not to prescribe.

(On the notion that people are motivated by ideas about what is good and right).

“Look [*indicates to the television screen*] at the disaster in New York City, so those who committed the terrible crime, I am sure have a very perverse but very strong

morality ... they sacrifice, 5,000 people, and then their lives as well, but they are doing it for the sake of some benefit nobody knows, but they believe that they help the world, definitely.” (interview, 2001)

The difficulties of grasping the politics of solidarity espoused by Maly and Czech bishops and the anti-politics of solidarity which Weigl describes with reference to New York⁹⁵ are captured inadequately by the growth in political science models dominated with rational choice understandings of social interaction. (see for example, Gill, 1998). The Czech Catholic Church is an example of a civic association productively engaged in the elaboration and institutionalisation of post-Communist democracy. Yet, as this thesis has argued, research on civil society tends to dismiss such associations as capable of such endeavours (for example, Cohen, 1999; Putnam et al, 1993). Where feminists have pointed to the chronic exclusion of women from public activities on the grounds of some purported ‘irrationality’, the same is often true for religious groups, a point demonstrated by the continuing failure of UK Muslim organisations to qualify for public funds to finance the public education many of them wish to provide. Despite the emphasis on the importance of the ‘civil’ in civil society, the public and civil mindedness of religious organisations is often regarded as suspicious, whereas it is praised and encouraged when evidenced in secular organisations.⁹⁶ The assumption is that the beliefs of the religious in the other wordly - the non-public - render them incapable of any genuine concern with the public, or that a

⁹⁵ See Hannah Arendt ‘On Violence’ for a distinction between politics and violence (Arendt, 2002:137-145).

⁹⁶ For example, the criteria for the UK Single Regeneration Budget often excluded religious groups from those deemed eligible to apply for funding to run activities such as youth groups.

concern with the non-secular make people simply unfit to grasp the nature of, or interact with, that which is secular. That assumption is institutionalised in varying degrees across different countries. While this research concentrated on the Czech Republic, it endorses the views of Monsma and Soper who argue for further comparative research on the status of religious organisations. From their five country case study, they conclude that,

Practices that are largely unquestioned in one country, such as England's established church or Germany's church tax, are unimaginable in other countries...we believe that countries can learn much from each other and that the distinct church-state policy of these five countries is largely untapped soil for resolving what are persistent tensions between religious and political institutions. (Monsma and Soper, 1997:200)

7. Conclusion

Kumar concludes his article 'Civil Society: An Inquiry Into the Usefulness of an Historical Concept' with the comment that,

To rediscover civil society, to retrieve an archaic concept, may be an interesting exercise in intellectual history but it evades the real political challenges at the end of the twentieth century. (Kumar, 1993:391-392)

These real political challenges, Kumar argues, "relate not to the institutions of civil society but to the institutions of the state and to the reconstitution of a functioning political society" (Kumar, 1993:391). This thesis rejects both those arguments. First, the thesis shows that civil society itself plays a key part in these political societies and in their reconstitution. Second, the thesis argues that the question of what the political challenges are or what is be

regarded as of political importance, is in itself a profoundly political question. Kumar claims that civil society evades the “real political challenges”, but it is clear from this thesis that what the real challenges are cannot be defined by Kumar, or an external observer or analyst, for who defines and decides is part of the struggle between civil society and the state. Kumar concludes that “the establishment of a democratic polity and a public sphere of political debate and political activity are the primary conditions for a thriving civil society of independent associations and an active civic life” (Kumar, 1993:391-392). This thesis has demonstrated that such prioritisations cannot be defended, for in the Czech Republic the very expansion and protection of public spheres has come from members of civil society. What that civil society is and what it will become is as yet unclear, but the politics of the Czech Republic show that there is much at stake in the concept and battles over civil society, in what those battles will mean for citizens and non-citizens, for the societies they inherited and for the ones that they create.

Appendices

A. Interviewees

The Catholic Church is divided into two ecclesiastical provinces: The Czech Ecclesiastical Province is made up of the Archdiocese of Prague and the Dioceses of Ceske Budejovice, Litomerice, Hradec Kralove, and Plzen. The Moravian Ecclesiastical Province is made up of the Archdiocese of Olomouc and the Dioceses of Brno and Ostrava-Opava. The Apostolic Exarchate is the organizational and juridical ecclesiastical unit for Catholics of the Byzantine Rite (Greek Catholics) in union with the Holy See who live within the boundaries of the Czech Republic. It is subject to the Holy See. The Czech Bishops' Conference was established on March 30th 1993 after the foundation of the Czech Republic on the basis of articles approved by the Congregation for Bishops on January 23rd 1993 (Katolicka Cirkev v Ceske Republica (The Catholic Church in the Czech Republic), pamphlet published by the Czech Bishops Conference. 1997

List of interviewees

Bishops from six of the eight dioceses in the Czech Republic and the Spokesman for the Bishops' Conference agreed to act as respondents.

- Vaclav Maly, Bishop of Prague.
- Antonin Liska, Bishop of Ceske Budejovice.
- Jaroslav Duka, Auxiliary Bishop of Hradec Kralove.
- Josef Koukl, Bishop of Litomerice.
- Josef Hrdlicka, Bishop of Olomouc.
- Frantisek Lobkowicz, Bishop of Ostrava-Opava.

- Ivan Ljavinec, Bishop-Apostolic Exarch, Head of the Czech Republic's Greek Catholic Church
- Daniel Herman, Priest and press secretary of the Bishop's conference.

A further five interviews were conducted with politicians who hold responsibility in their parties for religious affairs or are deemed to be particularly knowledgeable about the topic.

- Jaromil Talir, ex- Minister of Culture and a member of the Christian Democratic Union - Czechoslovakian People's Party (KDU-CSL).
- Miroslava Nemcova, Shadow Minister of Culture in the Civic Democratic Party (ODS).
- Miloslav Ransdorf, Vice-Chair of the Communist Party of Bohemia and Moravia. (KSCM).
- Karel Floss, member of the Senate for the Social Democratic Party (CSSD)
- Jiri Weigl, chief advisor to ex-Prime Minister Klaus (ODS)

Two open-ended questionnaires (one for bishops, one for politicians) were designed with the aim of generating information around the three dimensions of Schmitter's ideal type 'civil society' discussed above. The interview allowed for follow-up questions to be pursued. The interviews lasted approximately 1-3 hours. All the interviews were taped with the exception of the interview with Bishop Ljavinec who refused permission.

B. Questionnaire for Interviews with Bishops

1. Under communism the church, across eastern Europe, participated in the struggle for democracy. The Pope has often commented since that the church has an important role to play in

the new post-communist societies. In your opinion what is the greatest contribution the church can make to democracy - to safeguarding or even deepening this relatively new democracy?

2. The Pope has made many comments on the social consequences of a free market. What can/does the church in the Czech Republic do to promote its own vision of capitalism?

3. The Catholic Church in Poland played a very important role in challenging the communist state. However in recent years there has been criticism from some quarters that the church in Poland, has played *too* much of a political role - an inappropriate role. What is your opinion of that view?

4. Political parties and the church.

- How responsive do you find politicians in the Czech Republic are to the church's needs and the church's interests?
- What are the main paths/avenues of influence that are open to the church? For example, in your diocese do you have regular institutionalised meetings with any of the political parties?
- Are you invited to sit on any committees?
- How effective have any of your efforts to communicate with local politicians been?
- How effective are these politicians in representing the church's interests at local and national level?
- What do you think a good working relationship between politicians and important organizations like the church should be?

5. There have been times when Cardinal Vlk criticised Vaclav Klaus. In western European democracies it is not very normal for the

church to openly criticise politicians. When is this appropriate? How far should the church go in openly criticising government?

6. Restitution

- What is the main obstacle to resolving the conflict over restitution?
- Has the restitution issue put a strain on ecumenical relations?
- Would the church support the return of property to the Sudetan Germans?

7. Are you happy with the organisation of religious education in your diocese?

8. There has been some rather sensationalised articles in the western media about the so called underground church. Do you have any sympathy for some of those in the 'underground church' who did not want to accept the solutions offered by the Vatican? (They claimed that the Vatican did not understand, or empathise with the role they played - that they weren't really appreciated for what they did.)

9. At times the church has been criticised by members of the laity and even members of the clergy for suppressing discussion on issues such as the role of women or celibacy. How accountable is the church to its own members? For example can they express their views on these issues in '*Katolický Tydeník*⁹⁷ or in any other forum?

10. What do you think of the Catholic Church's recent efforts to reconsider the teachings of Jan Hus?

⁹⁷ A Catholic Newspaper published by the Catholic Church in the Czech Republic.

11. Across Europe, the church is in crisis in attracting new members. What can the church do about this? In your opinion what new skills does the church need to survive and prosper?

C. Questionnaire for Interviews with Politicians

1. Havel has spoken a lot about the role of a civil society in democracy. Klaus has been much more wary of this term. What is your understanding or opinion of this notion of civil society?

2. What do you consider an appropriate relationship between politicians and interest groups should be?

3. What are the obstacles to forming this relationship?

4. Are political representatives from your party (in the Parliament or the Senate) actively encouraged to cultivate links with interest groups?

5. Relationship with the churches?

- Do you have a relationship with any of the churches?
- With which church and with whom?
- Are meetings regular/institutionalised?
- What are the nature of the demands made on you?

6. In your opinion what is the appropriate role in society for religious organizations like the Catholic Church?

7. To what extent should the churches be involved in politics?

8. Has there been any conflict between the political parties over the provisions for religious education?

9. What, in your opinion is the main obstacle to resolving the conflict between church and state over restitution?

10. Can you describe to me the relationship between the Christian Democratic Party and the Catholic Church?

11. In your opinion what is the greatest contribution the church can make to democracy?

D. The Esras Transcripts

What proved to be an extremely useful source of information were interview transcripts given to me by Esras, a small Irish film company devoted to religious affairs. Esras produced two 25 minute documentaries for Irish Television on religion in the Czech Republic. The majority of material in the transcripts has not appeared in the public domain either on T.V or in print. Titles of respondents below are given as they were at the time of the Esras interviews in 1993. Not all these transcripts are referred to in the thesis but I give here the complete list of interviews as they provided useful background information.

- Miloslav Vlk -Arch-bishop of Prague and Primate of Czechoslovakia. (Now Cardinal Vlk)
- Miloslav Fiala, Reverend and spokesman of Czech Bishops Conference.
- Karel Otcenasek, Bishop of Hradec Kralove
- Jaroslav Duka - Priest (Now the Bishop Duka of my interviews)

- Vaclav Benda, Leader of the Christian Democrat Party, (CDP)
- Vaclav Ventura (married priest),
- Jan Konzal (married priest)
- Karel Chytil (married Bishop),
- Jiri Stejkoza (married priest),
- Jiri Kvapil (married priest),
- Vaclav Dvorak (married priest).
- Vaclav Vasko, (Director of the Catholic Publishing House Zvon).
- Fr. Sistronek (Prior of the Benedictine Monastery in Brevnov).
- Sister Bohuslava Kubacakova (Congregation of the Merciful Sisters of St. Charles Boromeo).
- Peter Imlauf (Secretary of the Family Renewal Movement).

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