

The Roman Catholic Church and the State in the Czech Republic: Property Relations and Legislative Policies

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Introduction

It is a long-standing tradition in the Czech Republic to link religious and secular affairs. All legislative measures and public policies relating to church-state relations reveal ambiguous attitudes of the state and society toward religion in general, and Roman Catholicism in particular. Among the most serious problems plaguing Church-state relations in the Czech Republic today are the restitution of Church property that was confiscated by past regimes, and the future financing of the Roman Catholic Church along with religious orders and other eligible churches.

Restitution of Church property and matters concerning their future financing is a major concern of the Church in the third millennium. The Church tends to take an ecological approach when dealing with the issue of the restoration of its lands and forests. Also, since the restitution of property and the future financing of the churches are also a part of the overall democratization process, negotiations are closely watched by the international community, namely by the Holy See and the European Union. The Church needs to improve its relation with the Czech State and the political parties, but also its relation and image within the Czech society as a whole if it is to protect its interests.

Since the dissolution of the Czechoslovak Republic on January 1, 1993 the Slovak religious communities, including the Roman Catholic Church have formed their own hierarchical and administrative systems tied to their respective religious and secular authorities. They will not be a concern of this paper.

A Short History of the Roman Catholic Church and its Orders in Czech Lands

When German monks first introduced Christianity, it was feared for its possible 'Germanizing effect' in the land. This was so despite the fact that the adoption of Christianity helped the Czechs benefit from association with the 'Western world.' While the Church and its orders were originally dependent financially speaking, this changed during the fourteenth century when extensive land endowment and other tangible gifts placed the Church and its orders among the wealthiest classes of society.¹

In 1415 the Church initiated the trial of Catholic reformer, Jan Hus. This resulted in Hus' execution and the Hussite Movement. The Hussite and the Thirty Years Wars left Bohemia with less than 800,000 people,² barely a third of the pre-war population. The principle, *cuius regio, eius religio* (whose land, those religion), allowed Catholicism to be the only legal religion in the Habsburg 'empire until 1849. The coincidence of the Counter-Reformation with the Habsburg 'Germanizing' attempts left the Czechs highly suspicious of the Church's primary affiliation. But in reality, the power of the Church and its orders were already weakening due to the centralizing efforts of Maria Theresa. This trend continued under the rule of Joseph II.

¹ Harrison S. Thompson, *Czechoslovakia in European History*, (Princeton, New Jersey: Princeton University Press, 1953), p. 16.

² *Ibid*

After the dissolution of the Habsburg Empire in 1918, the new Czechoslovak State incorporated the 1874 Habsburg law on state control of religion into its legal codex. The State's anti-clerical propaganda lost its appeal mainly after the Germans occupied the country when, despite some cases of collaboration, the majority of the Roman Catholic clergy called for and participated in the anti-Nazi resistance movement. After its 1948 victory, the Czechoslovak Communist government was determined to (1) smash [the Church's] infrastructure; (2) seize control of its surviving institutions; (3) launch a concerted atheism campaign in schools and public life; (4) separate the Catholic Church from other churches; and (5) divide the hierarchy from the lower clergy.³ Although effectively dissolved in 1950, religious orders theoretically kept their structure and existed as a conference because of the signed statutes between the Czechoslovak state and the Holy See.

The Vatican's *Ostpolitik* fostered the activities of religious and secular dissent. It played a role in the Revolution of 1989 in central and Eastern Europe by “preaching a revolution of conscience.”⁴ After 1989 the Law on the Freedom of Religion and the Conscience, together with other new laws, acknowledged the right of all churches, religious orders and other religious institutions to operate on Czech territory virtually without any interference from the government.

By 1989, the Roman Catholic Church in the Czech Republic was given the status of a juridical person. But the Czech law codex still fails to specify whether this registration is valid for the whole body of the Roman Catholic Church or whether it only considers part of the Church functioning within the borders as registered. This ambiguity allows the government to regard the Roman Catholic Church in the Czech Republic as somewhat separated from the rest of its body and therefore to view its policies toward the ‘Czech Church’ as justified.

The Communist agreement with the Vatican about the continuing legal existence of religious orders in Czechoslovakia enabled the re-emerging religious

³ Sabrina P. Ramet, *Nihil Obstat: Religion, Politics, and Social Change in East-Central Europe and Russia*, (Durham, North Carolina: Duke University Press, 1998), p. 126.

⁴ George Weigel, *The Final Revolution: The Resistance Church and the Collapse of Communism*, (New York: Oxford University Press), 1992, Preface.

orders to negotiate with the newly established democratic government. Unlike the restitution requests from the rest of the Church, Roman Catholic religious orders received some of their confiscated buildings fairly quickly along with the government's promise to negotiate about the possibility of returning at least some of their previously owned land and forests.

The laws established after the 1993 dissolution of Czechoslovakia as a democratic state with approximately 10.5 million inhabitants⁵ still govern Church-state relations in the Czech Republic with only minor adaptations. Since the Czech legal codex makes it easy for any faith to gain legal recognition when its members number more than 10,000 believers,⁶ traditional as well as non-traditional religions and religious sects are proselytizing in the Czech Republic. Meanwhile, the government deliberates about lowering the number to 300 members.

The Roman Catholic Church is not only the oldest, but with its approximately 4 million believers⁷ it is also the largest and most influential religious institution in the Czech Republic. The leading body is the Czech Episcopal Conference (*Ceska biskupska konference* or the CBK). Since 1996 the Roman Catholic Church is also an associate member of the Czech Ecumenical Council (*Ekumenicka rada cirkvi*), set up in 1984 to bring together other Catholic and non-Catholic Churches.

For administrative purposes, the territory of the Czech Republic is divided into five Czech provinces presided by Archbishop of Prague Miloslav Cardinal Vlk, and three Moravian provinces headed by Archbishop of Olomous Jan Cardinal Graubner.

The Czech and Moravian Provinces and Bishoprics⁸

After 1989 the present-day regular male and female religious orders re-emerged with about 1000 monks and 3,500 nuns. This is out of pre-Communist counts of approximately 2,000 and 10,000 respectively.⁹ The Czech Republic today hosts 30 male and 49 female orders, which concentrate on either slowly rebuilding

⁵ *The Europa World YearBook 1997* (London: Europa Publication, 1997), p. 1067.

⁶ *Lidove noviny*, 20 August 1997 p. 4.

⁷ *Ibid*

⁸ *Ibid*

⁹ *Cirkve a majetek* (Praha: Obcansky institut, 1995) p. 18.

their existence, or establishing their positions within Czech society. All orders in the Czech Republic are entrusted with a "new evangelism in the country...despite the profound cultural and mental transformation since the fall of Communism."¹⁰

¹⁰ RFE-RL Research Report, 15 July 1994, p. 13.

Popular awareness of secular or third-tier religious orders in the Czech Republic is still very low and, despite the efforts of their members and the orders to promote their activities and attract new members, they are still few in numbers. Those orders are directed and coordinated by the Centers for Pastoral and Lay Activities, and divided according to their affiliation, clientele, or their goals.

Property Origins of the Roman Catholic Church

There are many conflicting views about how and when the Roman Catholic Church acquired its property. After careful and thorough research, the Czech Episcopal Conference has found the following to be true.

Property relations of the early Roman Catholic Church in Bohemia were largely governed by German law codex. Accordingly, the lands owning towns, nobility, and rulers also owned religious buildings on their property and were expected to provide for them. Following the directions of the 1139 Lateran Council about diminishing the economic dependence of the Church, the existing legal codex was gradually replaced by patronage laws which transferred the ownership of the property to the Church and limited patrons only to participating in its upkeep. The Czech lands were no exception.

Land endowment and other tangible gifts, together with large intentions, placed the Roman Catholic Church among the wealthiest classes of Czech society. Although used mainly for expansion and refining of religious architecture, the display of wealth resulted in a negative perception of the Church, which, with its other problematic actions, (namely the 1415 trial and execution of Jan Hus), led to the Hussite movement and wars. The Hussites and their followers destroyed hundreds of churches and other religious monuments in Bohemia, which represented invaluable works of art.

During the wars the townspeople and nobility justified their confiscating of Church lands by the necessity to return the Roman Catholic Church and its orders to traditional apostolic poverty. The loss of almost two-thirds of its property¹¹ had a negative impact on the Church's ability to defend its assets and to perform its duties.

¹¹ *Cirkve a majetek*, p. 13.

Despite its loyal behavior during the Thirty Years War, the Church had to relinquish its claims for the restitution of its property now in the possession of the victors. Although the Church compromised its independence by accepting outside resources, namely the sharing of profits from salt exports, it did well enough to expand its property as well as to maintain it.

The Habsburg offensive against the Roman Catholic Church aimed to strengthen state absolutism by diminishing the Vatican's influence within the empire. They did so by prohibiting the Church's acquisition of any additional property and by placing the Church and its property under strict state control. The Reforms of Joseph II not only further limited the Church's independence (already compromised by Maria Theresa's *Giunta Economale*), but his legal codex also stipulated that "property of the Church never ceased to be the property of the state."¹²

After the 1918 dissolution of the Habsburg Empire, the new republic incorporated Habsburg laws about state-imposed control of the Church into a new legal codex. The 1919 Czechoslovak land reform further reduced the Church's land holdings to 67,629 acres¹³ but, according to the 1937 decision of the Czech Supreme Court, the Church remained the *legal* owner of its confiscated property. The needs of the Church were provided for by additional taxation of its believers as well as by profit and non-profit organizations within the individual parishes. The state compensated for the regional differences by financial contribution or *congrua*.

¹² *Ibid*, p. 14.

¹³ *Ibid*, p. 16.

Presidential decree 5/1945 annulled the Third Reich's ownership of some Church property and the property was *de jure* returned to the Church. In reality the democratic government succumbed to communist pressure and its laws 142/1947 and 194/1947 further revised the 1919 land reform. After the 1948 communist putsch, the government used law 46/1948 to confiscate practically all Church land and forest holdings with the exception of individual churches, parish buildings and parish land up to 2 hectares.¹⁴ Despite the provisions of the 142/1947 and 46/1948 laws, the Church was never compensated for the lost property, and the state often intentionally used the property for unsuitable purposes or damaged/destroyed objects of exceptional artistic value. The state-adopted law 218/1949 provided for the Roman Catholic Church, as well as for other Churches and religious associations in Czechoslovakia.

After the 1989 Revolution toppled the Communist regime, democracy became a possibility. It became inevitable that a new basis would emerge for property relations between the state and Roman Catholic Church and its religious orders as well as other churches and religious institutions in Czechoslovakia.

The 1991 *Law on the Revision of Ownership Relations to Land and other Property* originally applied only to individuals. It included only the property confiscated between February 25, 1948 (the date of the communist takeover), and January 1, 1990. Its stipulations therefore excluded all political parties and churches in the Czech Republic. Pressured by religious and secular institutions at home and abroad, the state later changed the cut-off date for property confiscated for racial reasons and reconsidered the restitution of property to secular and religious organizations, including the Roman Catholic Church.

To speed up the restitution process and to hush up some of its most vocal critics, the Ministry of Culture divided all restitution requests into five categories. These related to cultural, legal and political issues and issues relating to the return of property to legal owners. As of its 1997 statement, the Ministry's list of "problem-free" Church property included 232 building and 478 land claims while the "problematic" group contains 112 buildings and 177 pieces of land. Requests for 228

¹⁴ *Ibid*, p. 18.

buildings and 355 pieces of land are declared absolutely out of the question. The Land Fund, a state-established agency for the management of not yet privatized or restituted immobilities, temporarily administers 67 buildings and 189 pieces of land originally owned by the Roman Catholic Church.¹⁵

¹⁵ CTK National News Wire (12 April 1997), in Lexis-Nexis Academic Universe.

Considering the increasingly negative political climate as well as its position as the greatest claimant of previously confiscated property, the Roman Catholic Church deliberated about if and how much of its property would be needed to cover its expenses, aside from other financial resources such as gifts, collections, and intentions. During the years 1990-94 the Church listed its confiscated property including how and when it was lost. It also worked on the idea of how much of its property would be needed to cover expenses, aside from other financial resources as gifts, collections, and intentions. The Church also summed up all of its existing or projected activities necessary for its proper functioning as well as for its external work.

The stance of the Churches in the Czech Republic on the restitution of their property, approved and supported by the Catholic Church, is summarized in the following:

- 1) although the Churches are interested in the return of all property confiscated after February 25, 1948, they are eventually willing to accept a list of the non-returned property accompanied with a satisfactory explanation as to whom and for which purpose the property would serve.*
- 2) as a matter of principle, the Churches demand that the last ties of their current economic dependence on the state for covering their own expenses would be severed within a maximum of ten years.*
- 3) the Churches hope to be able to cover their direct expenses by using voluntary gifts from their members, gifts from their various sponsors, tax assignations, tax breaks, and also*
- 4) the financial help from the churches, religious institutions, and organizations abroad.*
- 5) the Churches also expect that the state would participate in financing religious activities that serve the whole society namely in the spheres of education, culture, and healthcare, and are financially supported when provided by secular organizations.¹⁶*

¹⁶ *Cirkve a majetek* (Praha: Obcansky intitut, 1993), p. 13.

According to President Vaclav Havel, the Czech Republic is ready to talk about signing the Concordat with the Vatican which will specify what has been worked on for at least two years. It can be expected that it will also include property relations since "the cabinet really wants to adopt a solution to the relationship between the state and the church."¹⁷

The Property of Roman Catholic Religious Orders (Regular)

Early Roman Catholic religious orders acquired their property in ways similar to the Church. But since their property originated almost exclusively from endowments, gifts, and novitiate dowries made by the nobility and rulers, the orders' claims were constantly disputed and ownership questioned.

The Hussite wars destroyed approximately 170 monasteries and, along with confiscation of land, devastated religious orders in Bohemia. Their situation was so critical that after the end of the Thirty Years War the Crown had to participate in their economic recovery. Another blow to monastic life was dealt by the Josephan reforms which secularized all property not directly involved in education, science or healthcare.

The negative stance toward religion of the First Czechoslovak Republic was largely adopted by the post-1945 democratic regime, whose activities opened the door for later communist persecution of the monastic communities. Although the Communist regime also confiscated the property of religious orders, especially during the 1958 Action K (Action Monasteries, in Czech *akce klastery*), the confiscation was never legalized and thus the orders remained the *de jure* owners of the property.

After the 1989 Velvet Revolution, the Communist agreement about the continuing legal existence of religious orders in Czechoslovakia and their *de jure* ownership of confiscated property enabled religious orders to negotiate the restitution of property. Laws 298/1990 and 338/1991 regulated the return of some property formerly belonging to religious orders and other congregations. This also allowed them to renew their activities. The main beneficiary of these laws was the Archbishopric of Olomou. This was the first to obtain confiscated property. The Czech Republic today hosts 30 male and 549 female orders which are partially

¹⁷ CTK National News Wire (December 8, 1999), in Lexis-Nexis Academic Universe.

financed from the Church's budget though they are still largely financially dependent on the state.

The majority of the urban-based orders were willing to forego the full restitution of land suitable for agriculture and grazing. They planned to generate most of their income by renting or selling some of the returned buildings. The property remaining in their possession was expected to support itself by providing educational, cultural, social or charitable services to the public. The orders were also committed to finding alternative monetary sources as contributions by members of their own or other orders, and by gifts and donations from home and abroad.

The situation of the rural religious orders was different. In the past they used the profits from agricultural activities to cover their expenses. Renting or selling of their property was clearly more difficult due to their often-unfavorable geographical locations. Until improved transportation and widely computerized communications could eliminate the need of investors to be close to the big cities, those properties remained unattractive to prospective renters or buyers, including the state. In spite of that, rural religious orders were still willing to abandon their claims to the land in exchange for some other economic basis that would ensure their existence and ability to carry out their activities.

In spite of the leftist resistance, the 298/1990 and 338/1991 laws about regulating property relations of religious orders and congregations provided for returning 57 and later an additional 113 buildings to their former owners.¹⁸ Some properties may be irretrievably lost due to their being acquired by other religious groups, private citizens, organizations, or by being left in ruins. Endless disputes between state agencies and religious institutions about the extent and the time line for returning property to religious orders enhance the negative stance of the public, manipulated by politicians and media. For example, the complete restitution of the Zpraemonstrate Strahov Monastery would include the library with its collection of over 900,000 rare books and manuscripts, turned by the communists into the National Monument of Literature. Due to the state- and media-promoted public frenzy, the library remains in the possession of the Czech State.

¹⁸ *Cirkve a majetek* (1993), p. 18.

Religious orders and congregations also have to deal with accusations that restitution of their property will hinder or eliminate its current usage as museums, orphanages or homes that care for the disabled and elderly. The orders are also accused of submitting the visitors and residents to undue religious propaganda or influence. In reality, with the exception of a few buildings to house the members of religious orders, all returned property is used for religious, educational, social cultural, and charitable purposes. The leaders of religious orders also argue that nuns and monks habitually care for the sick, elderly, and needy and were highly valued even by the communists.

Considering their present and future options, religious orders and congregations have realized that the profits from the management of returned buildings, (as the majority of them were in various states of decay), and from financial contributions alone could not cover their expenses. According to Dominik Duka, the orders also expected the state to participate in maintaining national monuments returned to the orders. They also expected the state to participate in the upkeep of other properties that already belonged to or were expected to be transferred to the orders but were currently serving public needs. Contrary to its promises, the government not only hesitates to return more property, but only begrudgingly participates in the upkeep of returned assets and in supporting the orders and congregations. The stance of the government and the current economic situation forces religious orders to join the demands of the Roman Catholic Church, and to insist on returning entire properties previously owned by the orders including the land and forests.

Secular Religious Orders and Religious Lay Organizations and Movements

It may be concluded that the Roman Catholic Church in the Czech Republic acquired property in the manner herein described. Transferring property titles from the original noble or royalty to the Church or religious orders on the basis of the patronage law codex was the most common manner. Since the second half of the thirteenth century, all property titles were registered in Bohemia's Register of Landed Property. To separate the property of the Church from the private property of clergy and to provide for continuous, problem-free transfer of property from one clergyman

to another, local churches usually figured in the Register as the sole and exclusive owners of the respective church-funds or *prebends*.

The Church and orders' ownership of property was not questioned during the 1919 land reform since all legal documents at that time listed Roman Catholic institutions as legal owners of their property. The fact that the post-1948 Czechoslovak communist regime had to base their confiscation of Church property on legal decrees confirmed that the Communists regarded the property ownership of the Roman Catholic Church as lawful. Very significant also was the regime's views of religious orders as the *de jure* owners of their property, even after they *de facto* ceased to exist. Therefore, the arguments against the restitution of property, based on the doubts about the legality of the Church and religious orders' property ownership, are largely without merit.

Another common venue for the Roman Catholic Church and its religious orders to acquire property were gifts in the form of land, money, or other valuables. Wealthy believers usually made these gifts to their preferred religious denominations and institutions. Founders of various religious institutions often not only footed the bill for their construction, namely for monasteries, cloisters, and schools, but they usually endowed them with villages or land to support their upkeep and mission. The Roman Catholic Church and its religious orders, together with various other religious institutions, also benefited from the often considerable bequests of land, money, or other valuables made by believers, especially those childless or penitent. The practice of requesting the dowry from wealthy novices upon their entry to the monastery or convent was regarded as the “wedding to the Lord” and benefited mainly religious orders. The dowries were used to help cover running expenses or expanding the wealth of monastic communities. The money also allowed the orders to accept those who lacked necessary financial means. Many of those practices described above survived until the present time.

The Roman Catholic Church and its religious orders also expanded their wealth through various business transactions. Besides dowries, endowments, gifts, and bequests, the Church used the profits from its economic activities, including agriculture, brewery, and art, etc. to buy new property. Although considerable, the

profit from salt import was an example of an atypical source of income for the Church.

The above summary, along with a historical overview, makes the majority of arguments opposing the restitution of property to the Roman Catholic Church and religious orders invalid. Although some of the Church and the orders' property were endowments whose usage specified intended purposes, the vast majority of the property in question was acquired by other legal means. This overview also dispels the myth that the majority of the Roman Catholic churches' and religious orders' property originated as confiscated property left behind by Czech Protestant _migr_s after the Thirty Years War.

The History of the Roman Catholic Church and religious orders and the manner in which they acquired their property proves that the legality of their property ownership existed even under the most oppressive regimes. The hope still remains that considering the information available, the Czech democratic government and Czech society will change their current negative stance on the restitution of property to the Roman Catholic Church and its religious orders, and the restitution process will be successfully completed.

Property Issues for Other Churches

Demands of the Federation of Jewish Communities to return Jewish property was supported by the World Jewish Organization (WJO) and other international bodies. This was acknowledged by the Czech government as a moral imperative, but remains a very thorny issue. The amendment to the 1991 *Law on the Revision of Ownership Relations to Land and other Property* allows the state to go beyond the otherwise firmly set cut-off date only in cases of returning the property confiscated for racial reasons.

The Czech government's fears about this amendment, motivated by the possibility of additional demands from the currently excluded nationals and organizations, (namely some three million expelled Sudeten Germans), was justified. The stipulation is regarded as "contrary to the principles of a democratic country."¹⁹ The Federation of Jewish Communities also criticizes existing restitution laws for not

¹⁹ Reuters World Service (April 30 1994), in Lexis-Nexis Academic Universe.

dealing with the confiscated property of _migr_s. The Czech Constitutional Court will have to decide the constitutionality of "limiting the return of property only to people whose property had been seized on racial grounds, while excluding those whose property was seized for reasons of political persecution."

Excluding the Roman Catholic Church and the Federation of Jewish Communities, the restitution of property to other churches and religious organizations seems to be almost problem-free. Other Catholic churches in today's Czech Republic, e.g., the Hussite Church, the Old Catholic Church and the Orthodox churches, do not or cannot claim any property. Since Protestant Churches in Czech lands did not own any land and the value of their other assets was basically negligible, they are generally satisfied with state financial support and gladly settle for the return of a few previously owned buildings. Protestant leaders criticize the Roman Catholic Church, fearing that "its position toward restitution can gravely injure the common mission of all Christians in Czech society."²⁰

Non-Christian religious groups did not own any property prior to 1989 and, along with newly established entities, are governed by post-1989 laws.

Why the Roman Catholic Church and Religious Orders Demand their Property

The Roman Catholic Church and its religious orders today realize that they will always need some support from the government. But they reject their current dependency on the state's good will. Up to the present the majority of returned property has consisted of buildings, which generate no or only marginal profit. To cover expenses connected with their activities, the Church and the orders need a diversified economic basis that will include some agricultural land and forests.

²⁰ CTK National News Wire (August 26, 1996), in Lexis-Nexis Academic Universe.

The Church and the leaders of its orders demand the restitution of their former property on the grounds of morality and justice. The Czech State has already returned the majority of property to its lawful owners, and does not have any valid reason to exclude the Church and the orders. Since the Roman Catholic Church and its religious orders have always been recognized to have at least *de jure* ownership of their property, they have legal right to its return under the existing Czech law codex. According to the Archbishop of Prague, the restitution of property is also a question of human rights, and therefore the current stance of the Czech government is unjust and immoral.

The profit from the returned property, at least to some extent, will cover the expenses of the Church and religious orders. The largest single item in their budgets is repair and maintenance of buildings followed by providing for the secular and regular clergy. The expenses for religious publications, Church media, utilities, and transportation, represent another significant part of the budget. Religious services, taxes, or financial support of seminary and other students also cut decisively into the money available to the Church and its orders.

The Roman Catholic Church and its religious orders provide a wide variety of services to the Czech public. One of their most important activities is in the field of education. After 1989 the Church opened numerous private and religious schools, and the Roman Catholic clergy is permitted to teach the catechism in state schools at all levels. However, the Church's ability to provide access to religious education is limited due to financial constraints.

The state contribution of Kc18,000-25,000 per student (depending on the type of school and on local circumstances),²¹ barely covers the operating costs and most pressing repairs of school buildings. The proposals to treat Church schools as private and to increase tuition fees will further limit access to them and further limit access to Church-sponsored education. The government wants to shift the responsibility to support Church and private schools to their founders and owners, while admitting that the state may or may not participate financially. The matter of financing Church-sponsored education is worsened by the negative stance of some Czech citizens

²¹ *Ibid.*

toward providing and supporting religious education. According to them, any support of Church-sponsored education by the government violates the principle of separation of Church and State. It is felt that the Churches, including the Roman Catholic and its orders should "accomplish that task outside publicly financed institutions."²²

As the state gradually diminishes its involvement in social agendas because of its financial difficulties, the Roman Catholic Church and the orders increasingly step in to provide an alternative safety net. As already mentioned, since earliest times both institutions have a reputation for caring for the needy. The Church and the orders in the Czech Republic today care for orphans and other needy children, as well as the sick and the elderly. They also work with other disadvantaged segments of the Czech population, namely with the Romany, as well as alcoholics and drug addicts, the homeless, and prisoners.

Caring for the youth and family further strain the Church and the orders' scarce resources. They run centers for children and young people, organize sports and cultural activities, and provide counseling and support for children in trouble. Since more than half of all Czech marriages ends in divorce, society can only benefit from the centers for Family Life and other marriage guidance centers offered by the Church and orders to "try and help them to find the right path."²³

The Roman Catholic Church along with her orders, is one of very few institutions with a proven record of good land and forest management. Although their participation in areas of environmental protection was very limited during the Communist era, today the Church is also strongly involved in the still much neglected issue of ecology.

²² Petr Fiala *et. al.*, *Koinotes. Felix M. Davidek a skryta cirkev* (Praha: Kniznice Proglask, 1994), p. 142.

²³ CTK National News Wire (18 June 1997), in Lexis-Nexis Academic Universe.

Although the Czechoslovak Communist regimes paid lip service to the well-being of the working class, environmental issues were not part of the official language. The failure to balance the exploitation and protection of natural resources resulted in the ecological devastation of a large part of Czechoslovakia. Despite the post-1989 environmental protection laws, the "gold rush" after the privatization and restitution of property only aggravated the problem. The situation is further complicated by the State's apparent disinterest in land and forests remaining in its custody, which results in fallow fields and forests.

If their property were to be returned, the Church and religious orders vow to draw on their past success in property management to avoid short-term gains by exploitation and neglect--behavior of many of the past and present land and forest owners. The Church and her orders hope to use their experience to provide guidelines for improving Czech agriculture, which is currently in very bad shape due to reasons cited above. Since they do not have the manpower to care for all property needing care, they will probably return to the liquor industry in which the orders excelled in the past. Some land may also be rented to carefully chosen farmers.

Following the message of John Paul II who spoke of "the respect for human life and dignity which is unthinkable without the respect for divine Creation and care for it,"²⁴ the Roman Catholic Church also participates in promoting environmental awareness about the ecological crisis. Although the Church admits that Judeo-Christianity participated in creating the current ecological crisis, the Church points out that individuals create culture. Changing its outcome depends on changing the behavior of individuals. Despite the limited interest in environmental issues among Czech people (which is mainly due to the poor economic situation), the Roman Catholic Church sponsors and promotes programs that deal with environmental issues. Since the Roman Catholic Church also regards environmental activities as part of the overall ecumenical process, it encourages the participation of Catholic theologians in the activities of other Churches and religious associations.

Opposition to Property Restitution of Roman Catholic Church and Orders

²⁴ *Katolický týdeník*, August 4, 1996, p. 1.

The ultimate success of the Church's re-Catholicizing effort in Czech lands has increased the pre-existing ambivalent feelings of the people toward Roman Catholicism. Many Czechs consider membership in the Roman Catholic Church to be separate from citizenship in the Czech nation. Some believe that being Catholic is somewhat defiant and a contradiction to being Czech. The government and its ideology influence public attitudes. The demands of the Church and her orders for the restitution of property are often justified, but their sometimes clumsy approaches seem only to irritate the Czech government and to arouse old suspicions among the Czech people about the "clerical Hydra."

Those opposed to the restitution of property to the Roman Catholic Church and religious orders call it "stolen property." These arguments are not only pointless but also misleading. The Catholic Church as a whole was always subordinate to the economic and juridical authority of the state, and the Church acquired legal status only in 1991. To include the Church in the pre-1991 restitution process was "a serious legal mistake since the Church did not represent an independent identity or an object of a civil law, and thus the property should not be transferred to a non-existent juridical person."²⁵

Some opponents argue that since the incomplete separation of Church and State allows for the financing of religion by the taxpayers, the State has the right to keep or to dispose of the Church and the orders' property as it sees fit. Others fear that restitution can again transform the Catholic Church into a dangerously powerful political player, which could only meddle with the affairs of State and society. After its electoral victory, the new government continues to oppose any large-scale restitution to the Roman Catholic Church and religious orders. According to Premier Milos Zeman, the government would prefer to regard the issue of the restitution of property to religious organizations as closed.

²⁵ *Listy*, November 3, 1995, p. 90.

Most opponents of restitution insist that it was the post-1989 legal, economic, and political chaos that opened the way to the current relations with the religious and secular ownership. There was also the matter of the lack of interest or ability of the Ministry of Culture and other institutions to deal with those matters. According to opponents, the Czech government is now exposed to unjust criticism at home as well as abroad.

Some opponents also use the environmental issues to support its argument against restitution. If land and forests are returned to the Church and its orders, they will be unable to properly care for or to develop them due to the low numbers of the secular and regular clergy and due to their current financial difficulties. Therefore, the lack of resources may aggravate the sad situation in Czech agricultural management, namely the pest control problem which is already critical in Czech forests, and the State may end up footing the bill for the upkeep of the Church's and orders' owned property.

Arguments against the restitution of property on the grounds that they should live according to its own teachings are supported even by some members of the Catholic clergy. According to Fr. Oto Madr, everybody should own only as much property as is necessary to fulfill one's calling. The lack of worldly possessions makes the Church free to focus on service to the needy and God.

Support for Property Restitution to the Catholic Church and Religious Orders

The supporters of restoring Church property point out that the opposition's arguments are motivated by the Czech suspicion towards anybody who claims or possesses extensive private property. Attitudes such as these were strengthened during the long decades of Communist egalitarian ideology. To support their arguments for the restitution of property to the Catholic Church, the pro-restitution group draws on official polls.

*Czech public opinion on property restitution to the Churches (in %)*²⁶

Subject	1993	1996	1997
<i>Return the property owned by the churches during:</i>			

²⁶ *Lidove noviny*, August 20, 1997, p. 4.

1) First Republic (1918-1939)	5	7	8
2) until February 1948	16	17	19
3) only part of the property concerned	21	27	29
4) nothing more	43	36	32
5) do not know	15	13	12
TOTAL	100	100	100

According to the supporters of restitution, the history of the ownership relations between the State and the Church clearly demonstrates the existence of the Church's juridical personality. In 1991 the State confirmed that fact. Pro-restitution activists also point out that "what was stolen should be returned." The ODS (*Obcanska demokraticka strana*), the CSSD (*Ceska strana socialne demokraticka*), other political parties, the state and citizens, are very concerned about the power of the Church. But, curiously, they do not object to the restitution and privatization of property to other institutions or individuals. The supporters of restitution to the Catholic Church regard claims that the Church's economic potential will endanger the political strength of the State as ridiculous. Considering that the cost of renovating is estimated at approximately 30 billion korun (\$1 billion),²⁷ even if all property claimed by the Church were returned, the Church is not in a position to buy access to the political power that she is alleged to seek.

²⁷ RFE-RL Research Report, July 17, 1992, p. 62.

The argument about the incomplete separation of Church and State is dubious as well. If such reality exists, it is caused by the State's unwillingness to relinquish its power over the internal and external affairs of the churches, especially over the Roman Catholic Church and its religious communities. Criticism of financing the Churches from the State budget unjustly singles out the Roman Catholic Church and religious orders. All Churches and religious institutions registered in the Czech Republic are eligible for and receive some form of financial contribution from the State.²⁸ Since the question of returning property to the Roman Catholic Church and religious orders is not yet resolved and since many of their social, educational and cultural services are opened to all, it is unjust to expect Roman Catholics to support all the Church and orders' activities. Supporters also dismiss the fears that restoring property to the Catholic Church can "hinder its development toward the better forms of public and religious service within the new, democratic framework"²⁹ and can have a negative impact on the still fragile legitimation and reputation of the Church. On the contrary, to fulfill its calling the Catholic Church needs not only the spiritual, but also an economic basis.

Although the supporters admit that returning Church property may, especially in early stages, have a negative effect on the environment, they argue that the Church and religious orders proven record of good management of land and forests is a guarantee of their future success. They point out that the majority of planned agricultural activities are not labor-intensive and, with the help of technology, the Church and the orders may become model farmers. Supporters also argue that the inability or unwillingness of the Church and orders to use or to develop some returned land and forests for commercial purposes is the best environmental protection.

According to Archbishop Vlk, arguments used by the opponents of restitution among the government and the public use the same arguments used by the communist to prevent amending the crimes of communism. In 1996 Archbishop Vlk pointed out that any scheme to deny returning property to the Church was also "at odds with

²⁸ *Lidove noviny*, June 9, 1997, p. 4.

²⁹ *Cirkve a majetek* (1995), p. 126.

human rights and with the constitution, which guarantees the right of ownership."³⁰ According to the current sources, the Church's attitude toward the restitution of its property, as well as linking the issue with basic human rights, remains unchanged.

Czech Political Parties and the Czech State on the Restitution of Property

After lengthy negotiations, in 1996 the ODS government agreed to return 175,000 hectares of forest land and approximately 500 buildings to the Church under the condition of withdrawing all State funding for its activities in four years except for maintenance of historical and national monuments.³¹ Possibly to attract voters for the next election after its 1998 electoral loss to the CSSD, the Klaus-led ODS again opposes any large-scale restitution of property to the

³⁰ CTK National News Wire (July 19, 1996) in Lexis-Nexis Academic Universe.

³¹ CTK National News (February 3 1999), in Lexis-Nexis Academic Universe.

Church.

According to its 1998 election program, the Czech Social Democratic Party was ready to resolve Church-State relations...and to support the care of national monuments which are, or possibly will be, owned by the Churches. Since its electoral victory in June 1998, the new CSSD government pushes to stop any further restitution of property to the Roman Catholic Church, because of its "unwillingness to give up the possibility of selling the assets lucratively itself."³² According to the Czech Episcopal Conference, the Roman Catholic Church has received only 200 items out of the requested 3000³³ as of January 1999. Restoring the agricultural land and forests formerly owned by the Church is still blocked under the 1991 law.

According to the KSCM's 1998 written statement submitted to the author of this article, the Communist Party of Czech lands and Moravia (*Komunistická strana Čech a Moravy* or the KSCM), the KSCM "does not want any nationalization and lawless meddling in the ownership relations," but advocates ending restitution as such, revising restitution decisions which benefit the Church and other persons with problematic claims, and stopping any restitution of national monuments to the Church.

The Freedom Union (*Unie svobody*) or the US's election program states, that the Union is ready to cooperate with the Churches and other religious associations, including the Roman Catholic Church. According to its 1998 written statement submitted by the US representative to the author of the article, the US supported the restitution of all rightful property to the Church, participating in the upkeep of cultural monuments, financing the churches by tax assignments, and introducing educational programs to promote religious tolerance and mutual respect.

³² CTK National News Wire (February 18, 1999) in Lexis-Nexis "Academic Universe.

³³ CTK National News Wire (January 7, 1999), in Lexis-Nexis Academic Universe.

The CDU-CSL coalition, made of the Christian Democratic Union (*Ceska Krestanska Unie* or the KDU) and the Czech Popular Party (*Ceska strana lidova* or the CSL), is the only influential political party which fully supports the demands of the Roman Catholic Church and religious orders, to restore their property. The recent death of Josef Lux, the KDU chairman and one of the most ardent advocates of Church affairs, may be a serious setback for the Roman Catholic Church and its property claims.

The restitution of property to the Roman Catholic Church is closely monitored not only by the Vatican, but also by other international religious and secular institutions, namely by the European Union (EU). Although the European Union officially distances itself from any direct involvement in the issue by offering only mediation and legal advice, it is clear that the outcome of the restitution issue may well have an impact on the Czech membership in that institution, since the restitution process is also tied to the issue of human rights.

Future Financing of the Roman Catholic Church and other Churches

To resolve the endless dispute about Church property, the Czech government and the Roman Catholic Church have to agree on some model of property ownership and financing, possibly one already successfully used by the countries where the separation of Church and State is complete. The solution will be applied to other legal Churches on Czech territory.

The Czech State prefers the French system where the State owns and maintains all churches and other religious buildings and allows their rent-free use by the poor and non-influential Roman Catholic Church. Donations and gifts account for seventy-five percent of its financing; the rest is covered by purposeful collections for maintenance of clergy. To make ends meet the priests are often required to hold second jobs. The Czech government already used this model's reasoning in its dispute with the Catholic Church about the Cathedral of St. Vitus, arguing that the cathedral is "the property of the people...and should be nationalized."

Although the Church insists on the return of at least some additional property, it is willing to consider the system used in Italy. The Italian state allows each taxpayer to have a voice in how 0.8 percent of his/her taxes is spent, which usually supports

governmental or religious social humanitarian activities. The State itself participates in the financing of religious activities in the sphere of culture, and health care. Expenses for the maintenance of religious historical monuments are jointly covered and coordinated by the Church and by local and State authorities.

The Czech government is also under increasing pressures from Pope John Paul II who urges all involved parties to reach an agreement on the controversial issue. Despite statements, Czech state officials hesitate to resolve the problem of restoring Church property by signing the bilateral agreement between the Czech Republic and the Holy See because it would not only end restitution, but also make the final legalization of the real separation of the Church and State a reality.

The restitution of property opens a Pandora's box of seemingly endless claims related to the injustices preceding the 1948 Communist putsch and forces the Czech government and society to face some unpleasant historical realities. Initially "the most ambitious restitution program in East Central Europe gradually turns into a legal and political nightmare, as [those] excluded from the process challenge the barriers to the return of their property." Environmental protection is not yet a priority, but future financing of the Church and the orders will have to address environmental concerns. No matter which model or system is adopted to help finance the Churches and other religious associations, including the Roman Catholic Church, they will need a solid material basis on which to carry out missionary, preservationist, charitable and educational activities.

Conclusion

To thrive in the third millennium of its existence in Czech lands, the Roman Catholic Church will have to adapt to various new challenges connected with living in democracy.

Although the Catholic Church's claims for the restitution of its property are in many cases justified, the Church will have to carefully avoid the accusations about seeking the return of property to strengthen her position and interests. The Church's property will have to be managed in a way that will benefit and promote not only the Catholic Church and the orders, but also the rest of Czech religious and secular communities.

The Church will have to be more involved in forcing the government to strike a balance between the technical-material and intellectual-moral aspects of the social and economic developments, especially important in the current crisis of the Czech society. Although the Church's activities already include addressing the ecology question, as the society becomes more aware of environmental issues, the Church and the orders will have to demonstrate that they are truly devoted to protecting natural resources. According to the Church, these difficulties are caused by the governmental focus on external, economic and political elements of the democratic process while neglecting its spiritual, intellectual and moral, (i.e., human) side.

To reverse current unfavorable developments, the Catholic Church will have to expand and intensify its educational and missionary work among believers as well as among the rest of society. By establishing and successfully running new elementary and secondary schools, the Church will improve its existing image in the general public, while establishing a different perception of the Church and its activities in the future. Providing easy access to religious education by opening additional classes in the Departments of Theology in Czech universities to students not pursuing clerical careers will also have to be high on the Church priority list. To accommodate the voices calling for greater cooperation between the Catholic Church and the laity, the parish and monastic clergy must work more closely with their local religious and secular communities.

The Catholic Church of the next century will continue to uphold the Papacy and basic Catholic teachings, but it will have to transform itself to offer alternatives to the hatred, indifference, and violence,³⁴ increasingly detectable in the Czech Republic. One of the greatest challenges for the Church comes from the West [whose] secular, materialistic capitalism may yet turn out to be the most serious and insidious ideological enemy that Roman Catholicism has ever had to face."³⁵

³⁴ Thomas Halik, et. al., *Vira a kultura* (Praha Zvon, *Ceske katolicke nakladatelstviu*, 1994), p. 126.

³⁵ *Ibid.*

The Catholic Church will have to become an institution which "will strive for the highest human values, for which [the Church is] responsible before God."³⁶ In its defense and promotion of the most basic and generally acceptable values, the Church will have to subscribe to the dictum of Neo-Kantianism and Liberalism which teaches that "human rights, tolerance, and human freedom are among the most cherished values that must be protected in any social and political system."³⁷

³⁶ *Ibid.* p. 129.

³⁷ Sabrina P Ramet, *Whose Democracy? Nationalism, Religion, and the Doctrine of Collective Rights in Post-1989 Eastern Europe*, (Lanham: Rowman & Littlefield, 1995), p. 16.