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The Church in a Democratic State after the Model of Slovenia*

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First, some clarification of my title is necessary. Clearly with regard to its constitution and basic institutions Slovenia today is a democratic state. In fact, however, democracy needs to develop in Slovenia before one could describe it as a democratic state without reservation. A truly law-governed state needs to be established; the old monopoly in the economic, financial and educational spheres, and especially in the media, needs to be abolished; and a civil society needs to be developed. The inadequate nature of democracy in Slovenia is particularly evident in the dealings of the Slovene state with the Catholic Church.

The former Yugoslavia was the most liberal of the communist states, and the most liberal of its republics was Slovenia. One would expect not only that an independent and democratic Slovenia would maintain its preferences for democracy, but that these would develop further and that this would also find expression in the relationship between the new state authorities and the Catholic Church. In fact, however, the situation is quite the reverse. Slovenia is the only postcommunist country which has not reintroduced religious education in schools and which stubbornly refuses any form of international agreement with the Vatican. These are merely pointers to the hostile and uncooperative attitude that the current liberal rulers of Slovenia have towards the Catholic Church.

How is this possible in Slovenia, a country right in the middle of Central Europe? There are at least two reasons. Firstly, Slovenia was a staunchly Catholic country until the communists came to power, a country which did not experience the liberal revolution of the nineteenth century and in which Catholicism maintained its leading role in all political and national changes. There is thus no truly democratic or pluralist tradition in Slovenia. Secondly, Slovenia is a relatively small country, so that it is much easier to build up and maintain monopolies in the limited fields of the economy and the media. Prior to the communist revolution Catholicism was thus in fact the holder of a monopoly. Communism built up its own monopoly through revolution, and even in democracy this monopoly is much easier to maintain due to limited geographical area and a small range of alternatives.

How Catholic is Slovenia?

Slovenia, which has fewer than two million inhabitants, is a Catholic country in the

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same sense that nearby Austria, Bavaria, Italy or Croatia are Catholic. If a Slovene is religious, then he is Catholic, save for the border region with Hungary, where approximately 19,000 Protestant believers live – that is, fewer than one per cent of the Slovene population. In a 1991 census 71.36 per cent of citizens said that they were Catholic, 4.34 per cent said that they did not adhere to any religion and 9.88 per cent did not give any answer. Members of other significant confessions, such as Orthodoxy (2.38 per cent) and Islam (1.58 per cent), are immigrants from other republics of the former Yugoslavia.

According to other opinion polls 13 per cent of citizens regularly attend church services, 11 per cent at least once a month, and 30 per cent only at important festivals and on special occasions. According to these results, the church as an institution has direct contact with approximately 55 per cent of the population. However, the same surveys showed a fall in peoples' trust in the clergy and the church in the first years of democracy and independence. Popular trust in all institutions, especially political parties, government and parliament, has fallen; disturbingly, however, the polls show that more people trust the police than the clergy or the church.

In the communist period a survey carried out in the years 1978–79 showed a quite different picture: a Slovenia that was negative to religious belief. Under 50 per cent said that they were religious. Some communist ideologists declared triumphantly that Slovenia was ceasing to be a Catholic country. But later developments show that the people in those years felt so intimidated that they had no trust in the anonymity of the poll and therefore concealed their true religiosity.

What are the Strengths and Weaknesses of Slovene Catholicism?

The communist regime conducted an aggressively atheist policy. Its intensity varied greatly in Slovenia and, indeed, throughout the whole of Yugoslavia – but there was no let-up in atheist indoctrination. Today Slovene Catholicism displays features characteristic of Catholicism in all formerly communist states. The following are salient: strong dependence on the church as an institution; traditionalism; clericalism; individual, private religiosity; separation of belief from social and political practice.

Strong Dependence on the Church as an Institution

The strength of the Slovene Catholic community lies in its close solidarity. There are no major disputes within the church. Unfortunately there is also too little pluralism and initiative. The Slovene Church has no 'left wing' or 'right wing' to speak of. The liturgical and other reforms that led to fierce disputes after the Second Vatican Council in some countries were accepted in Slovenia without opposition or debate.

Traditional Forms of Belief

In Slovenia traditional forms of belief and piety, of a kind that are difficult to find in countries such as France, are still current. They have, however, undergone a certain modernisation, or at least adaption to contemporary forms of expression, especially among young people.

'Clericalism'

It is a characteristic of Slovene Catholicism that the clergy remain almost the sole

driving force behind all activities in the church, not only in the pastoral and liturgical spheres but also in the area of those social, charitable, educational and other church activities that are in no way restricted to the priesthood. In the parish, too, the priest is the one undisputed authority and lay participation in decision-making, as in the church as a whole, is small. This is principally because there is as yet no great shortage of priests in Slovenia. Only recently has the number of candidates for the priesthood stabilised. In 1998 24 deacons were ordained. The priest still enjoys a certain respect in society and special respect within the church community. The second reason why laypeople are not becoming a driving force in church activities where the priesthood is not essential lies in the policies of the communist regime, which tolerated active priests but not active laypeople. The third reason is the fact that the Slovene Church is poor. Its only income is the voluntary contributions of believers. As a result it does not have enough funds at its disposal to employ a large number of laypeople or to offer them a decent salary. Finally, another contributing factor is the fact that until recently there was a lack of theologically and professionally qualified laypeople, who have been able to study at the theological faculty in Ljubljana in large numbers only in the last few years.

Individual and Private Religiosity

The religiosity of Slovene Christians is principally expressed in personal prayer, personal conviction, and a strongly emotional response to religious values and practices. A survey of young Slovene Christians reveals, for example, that 40 per cent experience God on a trip to the countryside while only 25 per cent feel near to God when they have done a good deed. We are thus dealing with an aesthetic rather than an ethical religiosity; this would help to explain the relative success of sects and the New Age movement.

One consequence is the very slight influence of Christian morality on the political and public activity of Slovene Christians and on the political decisions of believers, who do not even want the church leadership to become involved in public affairs. This is because people have not been used to political involvement and because they are more likely to have a negative than a positive attitude towards politics: they do not see politics as an honourable activity aimed at improving the common good but as an arena for careerism and profiteering. This is largely the legacy of communism. The communist constitution defined belief as the private affair of each individual and any church activity in the educational, social or charitable sphere was prohibited by law. Religiosity was banned from the whole public arena and even Christmas was a normal working day. There were no religious programmes on television and all public life was conducted as if there were no such thing as religion. It was not just that the state was separated from the church: civil society too – as far as it existed at all in the communist party state – was separated from religion. In such circumstances it was impossible to make a link between Christian belief and morality and social and political activity; and Christians themselves came to misunderstand the role that the church should play in public life. Most people are still convinced that ethics and politics have nothing in common, that politics is amoral and morality is apolitical. This is the main reason why postsocialist man so frequently finds a standpoint that is closest to his own in the liberalism that proclaims moral relativism and civic individualism and clings to it. Privatised socialist man was not in a position to integrate his personal, religious and civic life. He was permitted to be religious in private, in public he appeared areligious: in his private life he acted according to his moral

conviction, in public according to the political direction of the ruling party. Today such a person turns naturally to the ideology of liberalism because it allows him to view his moral life and public, political activity as two quite independent spheres of activity.

What are the *De Jure* and *De Facto* Relations between Church and State?

De Jure Relations

There is no official agreement between the Slovene state and the Catholic Church, neither within the state nor in an international framework. The legal position of the Catholic Church in Slovenia is regulated by Slovene constitutional legislation. Under the communist regime there was a special law on religious communities: this is still in force today in a partly amended form. The present government has presented a new law on religious communities to parliament, but the Catholic Church opposes this law for several reasons, principally because religious life and religious activity would be unnecessarily regulated by law and every regulation is also a limitation.

The basic provision in the constitution that is crucial for the Catholic Church is Article 7: 'The state and religious groups are separate. Religious groups have equal rights. Their activity is free.' What 'separation of church and state' is supposed to mean or not mean is not yet clear to many Slovenes. The former one-party state absorbed the whole of civic society and public life, and 'separation of church and state' under communism meant that the church was excluded from the whole public arena. 'Separation' was a front, a pretext, for the privatisation of faith and ghettoisation of the church. Slovene politicians and journalists still think very much along these lines, and it is difficult to get them to change their views. It is an understanding which is very closely linked with laicism – and in fact, if not officially, laicism is the ideology of the ruling Liberal Democrats: a laicism that is closer to the French laicism of the late nineteenth century, which may be defined as 'closed', inspired by positivist ideology and hostile to religion, than to the modern laicism characteristic of church–state relations in all contemporary European polities, which may be defined as 'open', characterised by a neutral ideological attitude towards religion.

Since 1992 the Catholic Church has been attempting to achieve comprehensive regulation of church–state relations in Slovenia; following the model of neighbouring states in Central Europe, it envisages this regulation as taking the form of one or more international concordats between the Slovene State and the Vatican. The government openly acknowledged this wish and in autumn 1992 a government commission was established to which both government and church sent members. This commission was supposed to draw up appropriate legal resolutions in five areas: the legal position; economy and finance; education; culture; and pastoral activity in particular institutions such as hospitals, prisons, the army and the police force. This mixed commission worked very well until 1994, but its activities then ceased: the presiding minister did not summon it for a year, and a last meeting took place in 1996 without any concrete results. However, during the period of Liberal Democrat rule (since 1992) a number of significant laws were passed, of which the school laws are of particular importance because of their extremely negative attitude towards the presence of the church in schools; hitherto government and church had not come to any agreement on this issue. The negotiations of the commission were thus ultimately unfruitful, and in 1997 the Slovene Bishops' Conference withdrew its membership of the commission.

A few months later two new negotiating groups were established, one representing the state and one the church. From the outset the church group declared that its aim was to conclude one or more international concordats between the Republic of Slovenia and the Vatican. On this point, however, there are great differences of opinion, since the Liberal Democrats, the strongest force in the government, reject the drawing up of any kind of agreement between Slovenia and the Vatican. They regard the Vatican as a foreign power and the Catholic Church as an indigenous legal subject over which Slovenia, as a sovereign state, should not be prepared to negotiate. They are articulating an essentially atheist and laicist ideology according to which all religious communities are equal and downgraded to the level of voluntary associations of citizens, which can be subject only to domestic legislation. They do not concede that the Catholic Church in Slovenia has a specific identity as part of the worldwide Catholic Church subject to the Vatican. They are afraid that the Catholic Church could strengthen its position in Slovene society by signing an international concordat, for the Vatican, as the highest representative of the Catholic Church in Slovenia, would then gain its own place at the negotiating table.

However, the position of the Liberal Democrats evolved and on the insistence of the church the two commissions prepared in February 1999 a document on the juridical status of the Catholic Church in Slovenia. This document served as base for the first international agreement between the Republic of Slovenia and the Holy See, which was prepared during the diplomatic negotiations from July 1999 to January 2000. However, this international agreement was never signed by the government because of strong political opposition and public opinion influenced by the same Liberal Democrats and the former communists.

According to current legislation the legal subjects of the Catholic Church (dioceses, parishes, orders) are legal persons in private or civil law. It is not difficult for a religious institution to obtain recognition as a legal person. Institutions of the Catholic Church which are concerned with educational, social or charitable activity must obtain the status of a legal person, in the same way and under the same conditions that secular institutions carrying out analogous activity must do so. Although the institutions were founded by the Catholic Church, they are subject to the legislation that regulates educational or charitable activity. Only those church legal subjects that are involved in religious activity in the strictest sense are permitted recognition as religious legal persons. An interesting exception is Caritas, which is registered as a legal person in the sphere of religious, not charitable, activity.

In the planned agreement between the Holy See and the Republic of Slovenia it is stated that the Catholic Church has the right to operate within institutions and establishments in which the free movement of their inhabitants is restricted. So far only the army has started to make this possible. On 21 September 2000 the present interim government signed an agreement with the Bishops' Conference to provide soldiers with normal religious assistance. This measure is however the object of virulent criticism in the media, which are mostly dominated by the Liberal Democrats and former communists. Other areas are awaiting legal regulation. Pastoral activity is organised in hospitals, but at church expense. Prisoners have the right to be visited by a priest, but prisons are not obliged to make sure that a priest is permanently available to the believers within it. Here too, as in other areas, the situation conceals the same laicistic mentality: religion is seen as an absolutely private affair, like a hobby, which anyone is allowed to pursue, but which does not concern the state. The state does not recognise the church or religion as playing a positive role in society and therefore does not feel obliged to promote or support it.

The state shows a certain understanding of the need to maintain the cultural heritage, a large proportion of which is in the possession of the church, and helps the church in this respect. As far as subsidising other general cultural and educational activities organised by the church is concerned, the state is more restrictive. It does however contribute towards the social insurance of priests and church employees to the order of approximately 40 per cent of the health assurance and state pension scheme at its lowest, compulsory level.

The most salient questions are those concerning church property and schools.

The property question concerns the return of property nationalised by the communist regime. The first postcommunist Slovene parliament, which introduced democratisation, adopted a new constitution and achieved Slovene independence, passed a law on denationalisation in December 1991. The law stated that former owners, including the Catholic Church, would get back the property that the communist regime had taken from them *in natura* – that is, the property itself rather than any form of indemnity (money, shares and so on). However, only a small proportion of the church's property has been returned to it *in natura*, because under the same law the state is not obliged to return property that is currently used for cultural, health or educational purposes. It was mainly church buildings that were used for these purposes, and so a large proportion of church buildings still remain in the possession of the state. If a property is not returned *in natura*, the denationalisation law decrees compensation, for which, however, there is no guarantee because the fund out of which compensation payments are made will soon run out.

One prominent case is that of 26,000 hectares of forest that belonged to the Archdiocese of Ljubljana before the Second World War. This has still not been returned despite the fact that the Constitutional Court has twice ruled that it should be and has rejected all appeals against its return *in natura*. In 1998 the current ruling coalition prepared an amendment to the law on denationalisation and if it is passed the Archdiocese of Ljubljana will receive back its forests, except for 9,000 hectares presented by the Austrian monarch as a gift on the occasion of the foundation of the archdiocese and which are therefore viewed as feudal property. The whole amendment to the denationalisation law remains very controversial, and it is not certain that it will come into force. However, the most crucial point in this context seems to be the fact that the government is not complying with the decision of the Constitutional Court. The Court twice reached the decision – in December 1996 and June 1997 – that the church and religious communities were legitimately entitled to make claims in the process of denationalisation, that their institutions were for the welfare of the public and that their property could not be equated with large real estate holdings of feudal origin. The government's proposed amendment is a consequence of the fact that since 1992 in Slovenia the leading parties have been those which have some continuity with communism. At the forefront is the Liberal Democratic Party (*Liberalna demokracija Slovenije*), the successor to a formerly communist organisation, the so-called Association of Socialist Youth (*Zveza socialistične mladine Slovenije*). However, Slovenia is a candidate for the European Union and this procrastination on denationalisation has been strongly criticised by EU members and the USA. As a result of this international pressure it seems that opponents of the denationalisation law have given up their efforts to obstruct it.

A second issue, more consequential and delicate, is that of education. Slovenia is currently the only state in the region that has no kind of religious education in state schools. After protracted and heated discussions the Liberal Democratic Party forced through its own model for Slovene education for the whole state; in no way can this

be seen as the joint product by all participants. On the contrary, a large proportion of parents, teachers and other civil and church groups have come out in opposition to it. In the 'liberal democratic schools', as their critics call them, the emphasis is clearly going to be on cognitive processes: upbringing, especially the moral development of the personality, is not going to feature. Many fear that Slovene schools are going to produce pupils 'with top-heavy heads and empty hearts'. In the name of the autonomy of the sphere of 'school' the education law specifically prohibits any confessional activities within it. As a result, in state schools, as well as in schools which have been licensed by the state and are therefore state-funded up to 100 per cent, it is forbidden to offer religious education or confessional instruction with the aim of teaching one religion and in which a religious community has a say in the content, the textbooks and the qualifications of the teaching staff; religious worship is also forbidden. On the other hand, 'Ethics and Citizens' Education' is a compulsory subject in these same schools. This subject, within which the pupils are taught about religion, and especially religion in their area, is offered as an optional subject in the last three compulsory years of education. As the pupils are able to decide every year if they wish to take this subject, it tends to lack coherence. Meanwhile, as the leading religion in the area, the Catholic Church nevertheless has no say at all on the scope or the content of this subject. The church is thus completely excluded from the state school system even when pupils are being taught about the Catholic faith and the church.

The church is therefore just left with its own schools. At present there are no church primary schools, and only four church secondary schools in Slovenia. There are also a few kindergartens run by individual parishes or religious orders. According to the new education law, the state offers to a private school 85 per cent of the costs incurred by each pupil at a state school. Private primary schools can be set up freely except when an existing state school in the same area would be threatened by a new primary school. In practice this means that church primary schools would be viable only in towns and cities, and that these schools would be accessible only to better-off parents. At present it is almost impossible for the church to found private schools because it is too poor to do so. The state does not wish to give it back any buildings that could be used as schools. The church also has too little money to provide school-rooms and the necessary teaching materials. At present church secondary schools can accommodate fewer than one per cent of Slovene secondary school pupils. The Catholic Church is very dissatisfied with this state of affairs and is unable to resign itself to it. This situation could lead to much future conflict between the laicist-orientated Slovene government and the Catholic Church.

De Facto Relations

It is clear from the legal situation outlined above that Slovenia is not yet a constitutional state in every respect. The relationship between church and state is determined – and to a large extent exclusively shaped – by the laicist-orientated ideology of the Liberal Democratic Party. In practice the state is constructing an almost totally restrictive relationship with the church. Its attitude towards the church could be described as 'distanced mistrust'. Under the leadership of the Liberal Democratic Party the state is prepared to offer only the minimum necessary according to the constitution. The Slovene state does not look positively on the church and does not wish to cooperate with it, as is the case in highly-developed European democracies. Even France has been able virtually to overcome the laicism especially characteristic

of the end of the last century which saw the church in a negative light and which formed the ideological basis for the French *séparation de l'Église et de l'État*. At the moment the church in Slovenia is thus almost in the same position as the church in France at the beginning of this century.

This becomes particularly evident if we analyse the Slovene media. Some influential publications, radio stations and television channels are to all intents and purposes under the control of the successors of the previous regime. Thus especially over the last five or six years, while the 'denationalisation conflict' between the church and state has been going on, the church has been subject to a particularly harsh media campaign. This has been a calculated campaign directed against the church and its moral role. My generation cannot recall that even under communism there was ever such a long, systematic and intensive campaign against the church as the one we have seen in the last six years. For eight years there has been no cooperation between government and the church. We are thus dealing with a conflict that comes close to a *Kulturkampf*. The Liberal Democratic Party insists on its laicist ideology and promulgates it with every means at its disposal, above all through schools. The relationship between church and state is neither constitutional nor defined and ordered according to legal principles, as is customary in European tradition, but still formed by ideology – that is, laicism.

However, a much broader conflict is emerging here within Slovene society. In the foreground is the conflict between the 'old powers' which control over 90 per cent of the economy, finance and the media, and the 'new democratic forces', which are not only incomparably weaker with respect to capital, media influence and political experience, but are also divided among themselves.

What Opportunities does the Church Have? How is it taking Advantage of Them?

The essential difference between the current situation and that under the previous communist regime is only that there is no ban on church activities in the current democratic state.

According to the Slovene constitution 'The activities of religious communities are free'. However, the state can limit this freedom, whether by arbitrary supplementary legal regulations or by failing to return property to religious communities and so weakening their power. There are many such cases in Slovenia, and they have a particularly noticeable effect as far as the employment of laypeople is concerned. If the church is denied its property, for the most part it has to resort to relying on voluntary work from laypeople.

The church in Slovenia has a well-functioning press and its own radio station. Its attempt to set up its own television station failed, however; many people think this was because it began at a level beyond the church's ability to maintain. The church is trying to revive all those activities which were banned under communism. Obviously it lacks experience in many of these fields, particularly social and charitable activity and running its own schools. In the social sphere, Caritas has been able to fill the gap; but schools still pose a big challenge. The church would like to extend its network of secondary and vocational schools. It places particular emphasis on the training of laypeople in church social teaching. 'Renovabis' is to be thanked for its support in setting up programmes in this area.

The church in Slovenia has started holding synod meetings. The first took place in 1999 and the next is due in November 2000. The synod assesses the most important

tasks for the future and above all sets priorities. One of the most important tasks for the synod will be to consolidate cooperation between laypeople and clergy and to integrate laypeople as sharing responsibility in the church. The church will also undertake significant restructuring; a number of new dioceses are to be founded. This will mean decentralisation for the church; but at the same time, however, distance between church centres and the periphery will decrease.

Initial enthusiasm at Slovenia's democratisation and independence has given way to a period of deep disappointment. We must recognise that the processes of change are progressing much more slowly than we had hoped. Meanwhile, the church has learnt to take a long-term view; and people are generally realising that democracy is an ongoing process which never comes to an end.

(Translated from the German by Geraldine Fagan)