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Kokkinakis at the Grassroots Level

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Abstract

This contribution considers the impact of *Kokkinakis* at the grassroots level: to what extent do grassroots level actors know about the case of *Kokkinakis* and see in it an opportunity to further their own religion-related rights claims? To what extent has the case inspired social actors such as rights activists, cause lawyers or faith group members to mobilise for their own religion-related rights, whether in court, in the halls of government, or in the streets? Has *Kokkinakis* left a mark on the individual citizen with concerns to do with religious freedoms? These questions are addressed through empirical research conducted on the indirect effects of ECtHR religion-related case law, including *Kokkinakis*, at the grassroots level in Greece.

Keywords

indirect effects – proselytism ban – grassroots mobilization – Metaxas laws – Greek Orthodox – European Court of Human Rights (ECHR) – freedom of religion or belief

1 This article draws on research conducted under the auspices of the European Research Council-funded Grassrootsmobilise Research Programme (GA No. 338463; *see* www.grassrootsmobilise.eu), and while Research Associate of the LSE Hellenic Observatory. I would like to thank Grassrootsmobilise programme manager Alexia Mitsikostas for her invaluable research assistance in preparation of this text; Agis Petalas for his guidance on the relevant Greek legal norms; and Margarita Markoviti for her excellent research which underpins the present text and her helpful feedback.

1 Introduction

This contribution considers the impact of *Kokkinakis* at the grassroots level: to what extent do grassroots level actors know about the case of *Kokkinakis* and see in it an opportunity to further their own religion-related rights claims? To what extent has the case inspired social actors such as rights activists, cause lawyers or faith group members to mobilise for their own religion-related rights, whether in court, in the halls of government, or in the streets? Has *Kokkinakis* left a mark on the individual citizen with concerns to do with religious freedoms?

The research on which this contribution is based studies the indirect, or radiating – in Marc Galanter's terms – effects of the European Court of Human Rights religion-related case law.[2] Building on North-American socio-legal scholarship which maintains that the direct effects of case law – e.g., in the case of the European Court of Human Rights (henceforth ECtHR, or the Court), the extent to which the Court's decisions have led to legal reform at the national level – is an interesting, but rather narrow field of study,[3] the research in question examines developments taking places in the shadow of that case law. Specifically, it studies the extent to and ways in which the Court's religion-related jurisprudence influences grassroots level actors' conceptions of, discourse about, and mobilisations in pursuit of their rights, whether through political or legal means; it also studies whether the case law alters actors' perceptions of the political or legal opportunity structures available to them for the pursuit of their religion-related rights.

Insight into the indirect effects of the Court's case law has been generated through empirical, qualitative research conducted at the grassroots level

2 The research on which this contribution is based studies the indirect, or radiating – in Marc Galanter's (1983) terms – effects of the European Court of Human Rights religion-related case law.

3 For a range of perspectives, *see* M. McCann, 'Law and Social Movements', in A. Sarat (ed.), *The Blackwell Companion to Law and Society* (Oxford: Blackwell, 2004), pp. 506–522; M. McCann, 'Law and Social Movements: Contemporary Perspectives', 2 *Annual Review of Law and Social Science* (2006), pp. 17–38; G. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: University of Chicago Press, 1991); M. McCann, 'Reform Litigation on Trial', 17:4 *Law & Social Inquiry* (1992), pp. 715–743; M. Feeley, 'Hollow Hopes, Flypaper, and Metaphors', 17:4 *Law & Social Inquiry* (1992), pp. 745–760; G. Rosenberg, 'Hollow Hopes and Other Aspirations: A Reply to Feeley and McCann', 17:4 *Law and Social Inquiry* (1992), pp. 761–778; M. Galanter, 'The Radiating Effects of Courts', in K.O. Boyum and L.M. Mather (eds.), *Empirical Theories about Courts* (New York: Longman, 1983), pp. 117–142.

in four country contexts: Greece, Italy, Romania and Turkey.[4] The present text focuses on Greece, the country context in which the *Kokkinakis* case arose. The formidable and extensive legacy of *Kokkinakis* over religious pluralism in Europe and beyond has been well established in this collection of articles. If we limit our scope to the legacy of *Kokkinakis* itself – i.e., what did *Kokkinakis* achieve in terms of religious rights' awareness and pursuit at the grassroots level – it is nowhere more evident than in Greece. Likewise, still limiting our scope to this single case, its *split legacy* is also nowhere more evident than in Greece.

In the pages that follow I will present the historical background of anti-proselytism laws in Greece which gave rise to the prosecution of Minos Kokkinakis and so many others after him. I will then draw on empirical interview-based research in Greece with a range of religious, legal, political and other social actors to illustrate the various, sometime contradictory, ways *Kokkinakis* has influenced their conceptions and pursuit of religion-related rights. Finally, the experiences and perspectives of Greek social actors with *Kokkinakis* are brought to bear on the 25-year old debates regarding the split legacy of the case.

2 *Kokkinakis* in Context

Kokkinakis arose in a context ripe with legal, political and social support for the prosecution of proselytism, with a deep history dating back to the establishment of the Modern Greek state. A brief consideration of this history reveals the interconnectedness between the legal, social and political dimensions holding the anti-proselytism legislation in place.

After the successful revolution against the Ottoman Empire in 1821, newly independent Greece was ruled by the regency of the Bavarian King Otto, installed by the Great Powers. Georg von Mauer, the member of the regency responsible for issues of Church, Education and Justice, oversaw a series of measures effectively subjugating the church to the state. The declaration of autonomy from the Ecumenical Patriarchate entailed one aspect of legalisation of the latter: the administrative leader of the five-member church Synod was to be the King (though Roman Catholic). The members of the Synod were hired by the government, and the presence of a royal commissioner representing the government was required at Synodal meetings and for the drafting of Syn-

4 For more information on research methods in Grassrootsmobilise, please *see* www.grassrootsmobilise.eu.

odal decisions, which were then subject to government approval.[5] In a second wave of church subjugation by the state, 412 of a total of 593 monasteries were closed and their properties were confiscated by the monarchy.[6]

A number of other circumstances during this period further pressed on Greek Orthodox sensitivities, including perceptions that Protestant and Catholic missionaries in the country were increasingly active on several fronts, and the exemption offered to the Greek Catholic monasteries that did not face closures as did Orthodox monasteries, and the fact that the regency and the king were not Orthodox.[7]

Thus, under a widespread impression of an attack on Orthodox traditions, many began to interpret the separation of the Greek Church from the Patriarchate as a conspiracy aiming to convert the people to Protestantism and Catholicism. Between 1833 and 1852 there were fourteen peasant revolts. Though most of these actually reflected popular discontent over the intensive power centralisation and burdensome taxation under Otto, or were goaded by local overlords hoping to exact financial rewards from the state, nonetheless, the revolutions were expressed in terms of a struggle against an "infidel" (i.e., non-Orthodox) administration and in favour of the protection of local religion and custom.[8]

This is the social and political context in which a ban on proselytism was introduced into the first constitution of Modern Greece. Article 1 of the 1844 constitution read:

> The prevailing religion of Greece is that of the Eastern Orthodox Christian Church, whereas any other known[9] religion is tolerated and its worship is carried out without hindrance under the protection of law; proselytism and any other intervention against the prevailing religious faith is prohibited.

5 P. Dimitropoulos, *State and Church: a Difficult Relationship* (Athens: Kritiki, 2001), p. 59.

6 *See ibid*., p. 60; T. Stavrou, 'The Orthodox Church and Political Culture in Greece', in D. Constas and T. Stavrou (eds.), *Greece Prepares for the Twenty-first Century* (Washington, D.C.: Woodrow Wilson Center Press, 1995), pp. 43–4; and N. Kokosalakis, 'Religion and Modernization in 19th Century Greece', 34:2–3 *Social Compass* (1987), p. 236.

7 V. Roudometof, *Nationalism, Globalization, and Orthodoxy: The Social Origins of Ethnic Conflict in the Balkans* (Westport, CT: Greenwood Press, 2001), pp. 103–4.

8 *Ibid*.

9 'Known religion' in the Greek legal context entails a religion whose doctrines and worship are transparent and whose initiation process does not include secret rituals.

Article 1 of the constitutions of 1864, 1911, and 1927 remained identical.[10] A change was introduced in 1952, reflecting a more 'positive' approach to other religions, moving from language of "tolerance" to that of "freedom" regarding minority religious groups.

The greatest change in approach came with the 1975, the current, constitution. Here the role of the church in relation to the state is set out in Article 3, not Article 1, and the ban on proselytism has been relegated to the 13th article, the main subject of which is – notably – religious freedom, rather than church-state relations. Further, proselytism is banned now not only when carried out "against" the prevailing faith, but against any "known" religion. Paragraph 2 of Article 13 indicates that:

> All known religions shall be free and their rites of worship shall be performed unhindered and under the protection of the law. The practice of rites of worship is not allowed to offend public order or the good usages. Proselytism is prohibited.

Into this timeline must be inserted the ban's embedding into Greek legislation. In 1938, under the military dictatorship of General Ioannis Metaxas, Compulsory Law[11] (CL) 1363/1938[12] was introduced, defining the scope of proselytism and setting out its punishment by imprisonment, non-convertible into a fine.[13] According to CL 1363/1938, proselytism, 'among other actions', is committed when one attempts directly or indirectly:

> to intrude on the religious beliefs of a person of a different religious persuasion, with the aim of undermining those beliefs, either by any kind of inducement or promise of an inducement or moral support or material assistance, or by fraudulent means, or by taking advantage of his inexperience, trust, need, low intellect, or naïveté.

10 With the exception of a minor stylistic change in the wording of 'in Greece'.

11 "Compulsory Laws" are those introduced through emergency procedures (i.e., without legislative procedure). In a sense this applies to all laws introduced under the dictatorship, in the absence of a parliament and thus of the possibility of legislative procedure.

12 Later replaced by Art. 2 of Compulsory Law 1672/1939.

13 Parallels can be drawn with the legislation around blasphemy, also introduced under the Metaxas dictatorship and also still in effect in Greece and the subject of intense debate. *See* E. Fokas, 'God's Advocates: The Multiple Fronts of the War on Blasphemy in Greece', in J. Temperman and A. Koltay (eds.), *Blasphemy and Freedom of Expression: Comparative, Theoretical and Historical Reflections after the Charlie Hebdo Massacre* (Cambridge: Cambridge University Press, forthcoming 2017).

CL 1363/1938 is particularly controversial for its vague wording which has allowed for extremely strict interpretation of a broad range of actions rather fundamental to certain religious faiths (e.g., the distribution of pamphlets and brochures).

According to the Hellenic League for Human Rights, most likely the "target" of the Metaxas laws on proselytism were the Jehovah's Witnesses (or, JWs) who, already in the 1930s had achieved significant growth in Greece.[14] In the 1940s, marked by civil war in Greece, the Witnesses were shunned by the left because of their base in the United States, and by the right because of their pacifist stance. And in 1953, by state decree (later overturned) all Witness children were expelled from public schools.[15] Further, according to one legal representative of the JWs in Greece, during the junta (1967–1974) all marriages of JWs were annulled.[16] Until recently at least, 'police chasing Jehovah's Witnesses' (following requests from representatives of the Orthodox Church or members of the public), has entailed a primary source of complaints with which the human rights section of the Greek ombudsman's office has dealt annually.[17] Thus we have examples of social and political negativity towards Jehovah's Witnesses and their culture of proselytism spanning the better part of two centuries.

Minos Kokkinakis was the first person to be arrested under the 1938 law criminalising proselytism,[18] detained over 60 times before the particular 1987 arrest which led to the *Kokkinakis* case in the ECtHR. Traces of a predominant Greek public opinion on JWs and their persistent witnessing can be found in the dissenting opinion of the Greek judge in the *Kokkinakis* case:

> On the one hand, we have a militant Jehovah's Witness, a hardbitten adept of proselytism, a specialist in conversion, a martyr of the criminal courts whose earlier convictions have served only to harden him in his militancy, and, on the other hand, the ideal victim, a naïve woman, the wife of a cantor in the Orthodox Church (if he manages to convert her, what a triumph!). He swoops on her, trumpets that he has good news for

14 'Freedom of religion' ['Περί θρησκευτικής ελευθερίας'], Hellenic League for Human Rights, http://www.hlhr.gr/περί-θρησκευτικής-ελευθερίας/, last accessed 23 May 2017.

15 M.D. Goldhaber, *A People's History of the European Court of Human Rights* (New Brunswick, NJ: Rutgers University Press, 2007), p. 68.

16 Personal interview with Margarita Markoviti, 28 September 2015.

17 Personal interview conducted by the author with representative of the human rights section of the Ombudsman's Office of Greece, 14 January 2013.

18 Goldhaber, *supra* note 15, p. 67.

> her [and] … expounds to her his intellectual wares cunningly wrapped up in a mantle of universal peace and radiant happiness. Who, indeed, would not like peace and happiness? But is this the mere exposition of Mr Kokkinakis's beliefs or is it not rather an attempt to beguile the simple soul of the cantor's wife?

3 Grassroots Mobilisations in Greece in the Shadow of *Kokkinakis*[19]

Having established the social, political and legal context in which the case arose, I proceed to examine the impact of *Kokkinakis* at the grassroots level in Greece by considering the evidence from the field.[20]

Starting with the question of general awareness of ECHR religion-related case law and of *Kokkinakis* specifically, the data naturally (and unsurprisingly) divides itself into two categories: the perspectives of those with some legal expertise (cause lawyers, legal advisors to religious groups, etc.), and those of 'the others' (namely, representatives of religious minority groups).

In this "other" category we find a relatively low level of awareness of *Kokkinakis* amongst representatives of other (than Jehovah's Witnesses) minority conscience-based groups. In interviews with representatives of several such minority groups, the closest indication of an awareness of the case was expressed with the words 'sounds familiar'. All interviewees in question were vaguely aware that the prosecution of proselytism seems no longer to be an issue in Greece, but did not know to what this change in policy is attributable. And, according to Dr. Margarita Markoviti, several interviewees in this category sought to use the interview opportunity to learn more about the Court and its case law in general.

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19 It should be noted that there is an array of variables which necessarily influence grassroots level impact of ECtHR religion-related case law, including the place of the ECtHR case law in the national legal order (What is the status of international jurisprudence and, specifically, that of the ECtHR, at the domestic level? Does it take precedence over national law in cases of conflict between the two?), and where particular conscience-based groups with rights claims stand in the 'national religious order' (in the context of hierarchies of rights and privileges amongst conscience-based groups found in all country contexts); space limitations do not allow an elaboration on the latter.

20 The interview data cited in this section was generated by Dr. Margarita Markoviti, the postdoctoral researcher for the Greek case study in Grassrootsmobilise (the few exceptions are duly noted); the bulk of the interviews were conducted between March 2015 and March 2017. This section entails a preliminary analysis based on the 28 interviews already transcribed at the time of writing (roughly three-fifths of the interviews in total).

However, this low level of awareness of *Kokkinakis* is coupled with a very high degree of recognition among conscience-based minority groups of the pioneering role of JWs in terms of securing religion-related rights for minorities in Greece. 'Jehovah's Witnesses are so active! How do they do that?' asked a representative of the Atheist Union of Greece. (Notably the line of questions continued with '[a]nd where do they get the money?') A Buddhist representative declared, 'we should make sure to always have a Jehovah's Witness in the front line when claiming our rights'.[21] In fact, so prevalent amongst such groups is the conception of and admiration for JWs as leaders in rights achievement, that Markoviti argues that the Witnesses' legal pursuit of their rights in Greece has a "filtering effect" for the impact of the ECtHR religion-related case law at the grassroots level:[22] i.e., representatives of minority conscience-based groups tend to have a general sense that the JWs have done very well for themselves, and for others, in winning rights vis-à-vis the Greek state, and these representatives know – and enjoy – the results of the JW legal struggles, even if they are unaware of the particular cases in question or even that they took place at the ECtHR.

Thus, albeit indirectly, the rich ECtHR case law of JWs versus the Greek state serves both to raise the rights consciousness of other religious minority groups in Greece and to inspire the latter in the pursuit of their religious rights claims. This "filtering effect" is particularly evident in how several representatives of other religious minority communities have followed the JWs' lead in deciding whether to register for the new legal status available to them through a law introduced in 2015; 'what did the Jehovah's Witnesses say [about the new law]?' asked one Bahá'í representative.[23] As corroborated by a legal advisor of the JWs in Greece, 'religious communities even call us to ask for advice on certain issues'. This is not surprising, he contended, because 'we represent about 90 per cent of religious freedoms cases from Greece!'

Accordingly, in this category of grassroots actors, we do not find evidence of *Kokkinakis, per se*, raising rights consciousness or inspiring legal mobilisation to secure their own religion-related rights. But, critically, we find the indirect effects of *Kokkinakis* and other JW-led case law, "filtered" through the Witnesses' broader success record at the Court.

21 This example is taken from M. Markoviti, 'The "Filtering Effects" of ECtHR Case Law on Religious Freedoms: Legal Recognition and Places of Worship for Religious Minorities in Greece' (*Religion, State and Society*, under review).

22 On this, *see ibid.*

23 *Ibid.*; see text for broader discussion of the 2015 law on legal status of religious minorities.

Expectedly, in stark contrast to the lack of *Kokkinakis* awareness that we find amongst representatives of conscience-based minority groups, human rights lawyers are keenly aware of both the importance and the details of the case. They also express "unfiltered" influence of *Kokkinakis* on their work in the domain of religious freedom. Were it not for the litigious culture of the JWs, one such lawyer argued, *Kokkinakis* would not have happened, and *Kokkinakis* was key to what followed for religious freedom in Greece: 'given the fact that the first and second Article 9 cases in Strasbourg were from Greece, the Greek lawyer learns faster than others that he or she can take a religious freedoms case to the ECtHR'. Likewise, another lawyer and human rights activist described *Kokkinakis* as 'enormously helpful' in her own work: 'We were always carrying *Kokkinakis* and *Manoussakis* in our files, carrying them like flags and threatening [our opponents] that we would go to the ECtHR'.

Other legal experts emphasised the fact that proselytism is no longer 'a problem' in Greece, by which they meant it is no longer a legal – not social – problem, *even though* the ban on proselytism remains in place. 'I think no one cares about proselytism nowadays … in spite of the fact that the constitution prohibits it', explains one cause lawyer. Another one takes the point a step further: 'even though the law has not changed, the whole noise around it has stopped, which means that laws do not necessarily have to be changed'.

This quotation leads us to a question which pervades much of the interview research conducted for this study: *should the law change?* On this question our interlocutors fall into three different categories. Some, including the one quoted immediately above, argue that the law is rather arbitrary and not where we need to focus if we want to see real change. His point was supported by the perspective of a cause lawyer who worked extensively with JW cases and who noted that *Kokkinakis* itself did not bring about immediate change, or much change at all in and of itself; rather, it took another legal mobilisation of the Witnesses – over the building of a place of worship in 1999 – to change the tide of public policy towards the faith group. She emphasised the importance of political will and agency in this case:

> the Ombudsman's intervention was strong in this [place of worship] case … The bethel was built with the protection of the police, for an entire week we were escorted by the police. They worked non-stop, for a whole week, day and night.

Thus, she argued, 'this is when things actually changed concerning JWs', because, in spite of *Kokkinakis*, there were still prosecutions against proselytism; but the 1999 case changed the tide because of the publicity drawn to it.

Unsurprisingly, representatives of the JWs take a different view – representing a second category of perspectives – on the importance of rescinding the law banning proselytism. Their legal counsel in Greece indicated that the Ministry of Education circular distributed in police stations in the aftermath of *Kokkinakis*, asking the police to 'be cautious when it comes to proselytism', has limited the potential repercussions of their bearing witness, but he noted that police still do often hassle the Witnesses, quite simply because 'the law has still not changed':

> Yes, things are better than in the 70s and 80s, when we had 100 plus court cases per month about proselytism especially. But there are still annoyances, "come to the station with me, and stay for 2 hours", trying to stop them passing out literature … a priest could have called, a fanatic Orthodox. But not a word about removal of that law. No one dares remove that law.[24]

The latter point reflects the fact that the political costs have been too high and the potential gains too limited for rescinding the ban on proselytism. As Nicholas Hatzis notes, 'In general, governmental interference with religious affairs will be prone to yield majoritarian results reflective of the political influence of various religious groups'.[25]

The concerns of the above-cited JW are not unfounded, given that even as late as 2011 an evangelical Protestant was imprisoned in Greece for proselytism *and* given the perspective of the third category of interlocutors on the question of whether the proselytism ban should be rescinded. One professor of Orthodox theology and one legal advisor to a conservative union of Orthodox theologians share the perspective that the law must remain in place because 'it [proselytism] has not stopped, contrary to what some argue'. According to this legal advisor, proselytism is 'punishable in all European countries, including in the US', and the state has a legitimate reason to protect its citizens from it. The professor of Orthodox theology elaborated on the very live threat of proselytism with an example from the domain of religious education. Citing the efforts by "progressive" theologians to lessen its catechetical character and teach more about different faiths, he indicated:

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24 This quote is taken from an interview conducted by the author with the same JW representative, in 2013.

25 N. Hatzis, 'Neutrality, Proselytism, and Religious Minorities at the European Court of Human Rights and the U.S. Supreme Court', 49 *Harvard International Law Journal* (2009), pp. 120–131.

> to put students in the shoes and the spiritual mindset of other religions is proselytism! … They want to offer students this multireligious poison … and thus create confusion, as you cannot teach the kids about 9 or 10 religions! The way things are, students are being taught about religions in a descriptive, informative and neutral manner[26] … To do otherwise means to proselytise … it means lack of respect to the Constitution and of the ECtHR, since you are not respecting someone else's religion!

Finally, the aforementioned legal advisor defended the proselytism ban with the support of the ECtHR: '[the *Kokkinakis* judgment] said that the constitutional prohibition of proselytism does not contradict the ECHR'. He repeats this point twice in the course of the interview, and further claims that 'the Court only observed that proselytism should entail some kind of pressure [in order for it to be punishable]'.

Indeed, *Kokkinakis* served defenders of the Greek proselytism ban a gift. And it is on this point, of what the split legacy of *Kokkinakis* means for the freedom to manifest one's faith – including through proselytism – that the Greek grassroots level engagements with *Kokkinakis* can be brought to bear on broader discussions of the legacy of the case.

4 The Radiating Effects of *Kokkinakis*: Insights from the Greek Context

What did *Kokkinakis* really achieve? Certainly this question has been debated heatedly starting from the separate opinions in the 1993 judgment and continuing to today in the present collection of articles. Amongst its achievements in the Greek context we see that, whether directly or indirectly, *Kokkinakis* has served as an important resource for grassroots level actors in Greece. It has also certainly been successful in almost completely resolving the 'problem of proselytism', in terms of the legal and political costs to the state of Greece because there are no longer (many) convictions for proselytism.

26 This is however not the case; rather, the current teaching of religion in Greek public schools clearly violates the principles set out in *Folgero.* See M. Markoviti, 'In-between the Constitution and the European Court of Human Rights: Mobilizations around Religion and Education in Greece' (under review at *Politics and Religion*); see also E. Fokas and M. Markoviti, 'Religious Pluralism and Education in Greece', LSE Hellenic Observatory blog, http://blogs.lse.ac.uk/greeceatlse/2017/03/01/religious-pluralism-and-education-in-greece/, 1 March 2017.

Consensus is lacking, however, on whether it matters that *Kokkinakis* has had this effect indirectly, not directly: it had this effect from the drawer of the police station desks where the Ministry of Education-generated circular on *Kokkinakis* has served simultaneously as a warning and reminder for police that people cannot be jailed for sharing their faith, and a justification that police can use to explain to complainants why the Jehovah's Witness in question could not be sent to jail.[27] It has not had this positive effect from a change in the relevant laws.

From one perspective, this might be described as a rather impressive feat – that *Kokkinakis* could thus resolve what was once such a menace to JWs and other minority religious groups practicing proselytism, *without* necessitating a change in the law. From another perspective though, taking a closer look at developments on the ground in Greece, *Kokkinakis* may be seen as a battle won but a war that was lost. Minos Kokkinakis was vindicated, but the message communicated by the Court was ultimately one of tolerance towards the Greek state; the Court recognises, in providing the background to the case, that:

> The Christian Eastern Orthodox Church, which during nearly four centuries of foreign occupation symbolised the maintenance of Greek culture and the Greek language, took an active part in the Greek people's struggle for emancipation, to such an extent that Hellenism is to some extent identified with the Orthodox faith.[28]

And in so doing it helped to further legitimate a system which hinges on the relationship between religion and national identity. When asked why the somewhat more direct route of rescinding the antiquated law introduced during a military dictatorship to criminalise proselytism was not selected, a representative of the Ministry of Education and Religious Affairs indicated that the Metaxas laws 'will change … they cannot but change at some point', but:

27 On this point, *see* E. Fokas, 'Banal, Benign or Pernicious? Religion and National Identity from the Perspective of Religious Minorities in Greece', 17:1 *New Diversities* (2015), pp. 47–62, and E. Fokas, 'Notes Towards Connecting the Disconnect: The Role of the Religion-National Identity Link', in M.-C. Foblets, K. Alidadi, J. Nielsen, and Z. Yanasmayan (eds.), *Belief, Law and Politics: What Future for a Secular Europe*? (Farnham: Ashgate, 2014), pp. 197–200.

28 European Court of Human Rights, *Kokkinakis* v. *Greece*, Application No. 14307/88, judgment of 25 May 1993, para. 24.

> At this point in time, because of the [financial] crisis, the far right forces are heightened in Greece … This means that as soon as you speak about such things, you will have an attack from this part of Greek society, which is horizontal, it is in all institutions and in all parties … That's why this whole management requires care.

The bureaucrat's indirect reference to the ultra-nationalist tendencies in Greece is measured and reasonable, and is matched on both counts by that of a JW using the same reasoning to argue for an end to the ban sooner rather than later: precisely because 'the police face such pressure from those who do not like minorities', a rescinding of the proselytism ban is the best way to help them serve justice and resist those pressures. From this JW's perspective, the failure to abolish the law criminalising proselytism continues to signal to the mass public – members of which may be likely to contact the police about an "annoyance" from a 'proselytising Protestant' – that proselytism is illegal and that the rights of the majority are being violated when people of a different faith approach them in the hope of converting them.[29]

Here the words of Judge Martens in 1993 in his partly dissenting opinion echo those concerns expressed by a Jehovah's Witness 20 years later:

> To allow States to interfere in the "conflict" implied in proselytising by making proselytising a criminal offence would not only run counter to the strict neutrality which the State is required to maintain in this field but also create the danger of discrimination when there is one dominant religion … the State is lacking intrinsic justification for attributing greater value to the freedom not to be proselytised than to the right to proselytise and, consequently, for introducing a criminal-law provision protecting the former at the cost of the latter.[30]

Now 25 years later, both because of and in spite of *Kokkinakis*, Judge Martens' worries and criticisms ring as relevant as ever in the contemporary Greek context.

29 From an interview conducted by the author with a JW representative in 2013.

30 Partly dissenting opinion of Judge Martens, paras. 15–16.