

Greek opposition to evangelism

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Abstract

The Greek anti-proselytism law has posed serious problems for evangelism and for the functioning of non-Greek Orthodox religious activities in that country – so often described as “the cradle of democracy.” In this article, the most important legal cases dealing with Christian evangelism in Greece are analyzed by the law professor who successfully won them at the Court of Appeals in Athens and at the European Court of Human Rights in Strasbourg.

Keywords Evangelism, proselytism, European Court of Human Rights, Greek Orthodox Church, Youth with a Mission (YWAM), “Athens 3”, *Larissis*, *Kokkinakis*, church-state relations, established churches.

Greece is generally viewed through the eyes of classical education (Pericles’ Oration on the Athenian Dead) or by way of Byronic 19th-century romanticism: the cradle of freedom cum laissez-faire sensuality ... Socrates and Zorba the Greek. Thus the popularity of the Greek islands for the perfect holiday.

In point of fact, one had better be very careful, at least religiously, while on that holiday. Since Byron’s day, when Anglican missionaries first brought their wares to Greece, an antiproselytising law has made the country anything but an open shop for religions other than the established Orthodox Church.

On holiday, therefore, one must be especially careful not to give a Bible (constituting a “material inducement” to convert) to someone not a member of one’s own church, or to criticise any of his religious ideas (one successful prosecution was for comparing a relic of St. Gerassimos to a “body stuffed with cotton”) or to invite

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children to a daily vacation church school. The law criminalises religious evangelism which takes “advantage of a person’s inexperience, trust, need, low intellect or naivety”; but, last we heard, everyone experiences religious “need” from time to time, and it is difficult to determine ahead of time (by an IQ test and psychological examination?) the intellectual and naivety level of the other person before getting into an evangelical discussion with him or her.

1. Background

The present-day attitude of the Greek populace and the Greek Orthodox Church toward issues of religious freedom is remarkably negative. In the early months of the new millennium, an effort by the socialist government to drop church affiliation from Greek national identity cards caused a nationwide row, with the Church claiming that its very existence would be imperilled by such a move. Even though the government noted that it was the Nazis who first introduced faith-designation on identity cards, and that the new regulation was doing little more than to streamline the cards (fingerprints, profession, and spouse’s name are also to be removed), the Church saw the move as a blow to national belief. Church spokesman Metropolitan Theoklitos asserted that “Orthodoxy . . . is an indivisible part of our identity and we want it written on the identity cards.”²

To understand such a reaction to what would generally be regarded as a tempest in a teapot, one needs to recall the modern religious history of Greece. Some 97% of the contemporary Greek populace are identified with Eastern Orthodox faith, in spite of low actual church attendance. Historically, the Orthodox Church in Greece held its own and indeed triumphed in bitter conflict with the Muslim-Ottoman empire, and the Greek-Turkish animosity today has a powerful religious component. Anglican missionaries in the 19th century were regarded as no less than heretics on the Greek scene; indeed, the first appearance of the modern Greek antiproselytism statutes (1844) was in large part due to the Greek Orthodox Church’s passion to restrain such organisations as the Society for the Propagation of the Gospel.

When liberal or socialist governments have been in power in Greece, church-state conflict has characterised the Greek scene. In November 1901, fighting between police and demonstrators resulted in eleven deaths and eighty persons being injured – owing to a dispute over the introduction of a demotic Greek translation of the Gospels! In 1907, the Holy Synod claimed (and won) the sole right to appoint and dismiss cantors and sextons, over against government demands for a say in Church councils and Church management. When Yiannis Kordatos’ book, *The*

² Patrick Quinn, Associated Press dispatch, 15 May 2000. Cf. “Greek Church Fights Change in ID Cards,” *New York Times*, 1 June 2000.

Social Significance of the 1821 Revolution, was published in 1924, containing negative criticism of the Greek patriarchate and higher clergy, the Church reacted fiercely.

Another row broke out in 1925, when Christian associations and advocates of purist Greek complained of anti-national teaching methods at the Teachers' College and the Marasleio. In 1926, "longhaired communist" teachers were dismissed and the Teachers' College abolished, and in 1930 Nikos Kazantzakis and Dimitris Glinos went on trial for "mocking religion" in an article in a literary journal.

In 1952, the Plastiras government threatened to expropriate Church land and stop clerical pay if the Church did not hand over some of its real estate for the use of 200,000 landless people. Eventually the Church handed over 750,000 stremmas. There was vigorous opposition in 1954, when the Holy Synod excommunicated Nikos Kazantzakis for his books, *Captain Michalis* and *The Last Temptation*, urging the patriarchate to do likewise and calling for the public prosecutor to lay charges. Both refused.

In April 1959, Church and State were at loggerheads again over the transfers of metropolitan bishops. The government abolished the right of transfer in most cases, and empowered the education minister to halt the Holy Synod's proceedings. In May 1960, the crisis peaked with unprecedented episodes in eight bishoprics. In November 1965, when the government refused to recognise elections of bishops that were held despite their postponement by the Council of State, supporters of the Hierarchy clashed with members of religious organizations.

Since the 1967-74 dictatorship, talk of separating Church and State comes up whenever there is a dispute. In the 1980s, large demonstrations protested against legislation to regulate the matter of Church property.³

But church-state conflicts in Greece have not persuaded the legislature to get rid of the Greek antiproselytism law, much less to disestablish the Orthodox Church. In most of the small towns and villages, the most influential person is still the local parish priest. Legislators are well aware of this fact, particularly at election time. They realise that to oppose Church influence on a grand scale would be political suicide.

In the last quarter century, the Greek antiproselytism law has been used again and again to suppress religious views other than those of the established Church. The first substantial international opposition to such repression of religious freedom came by way of the *Kokkinakis* case, in which an elderly Jehovah's Witness, who had been arrested more than sixty times and convicted more than eight times for door-to-door proselytism, was criminally prosecuted for making the mistake of

³ *Kathimerini News*, 14 June 2000.

trying to convert the wife of an Orthodox priest while the priest hid behind a door and took notes! The Strasbourg Court completely exonerated the applicant on the facts but refused to declare the Greek law incompatible with the European Convention on Human Rights.⁴

The “Trial of the Athens 3” in 1986 constituted the first of the significant Christian evangelism cases in Greece to come before the courts. This case was resolved within the Greek court system itself and thus, unlike *Larissis et al.* (which we shall discuss later), it did not reach the European Court of Human Rights in Strasbourg.

However, the arguments set forth – particularly those opposing the Greek anti-proselytising law – laid the basis for subsequent litigation in Strasbourg.

2. The “Athens 3” case

2.1 The Facts of the Case

In 1979, the M/V Anastasis arrived in the Bay of Eleusis, near Athens, for major refurbishing. The Anastasis is part of Mercy Ships International, a ministry of Youth With A Mission (YWAM)— a non-denominational, Trinitarian Christian missionary organisation of charismatic persuasion. The vessel is a nine-storey tall ship, built in 1953, with a gross tonnage of 11,695. The Christians who run the ship have a twofold mission: the first is to bring food, clothing and medical aid to needy people around the world. With living quarters for 600 crew members and a cargo capacity of 3,000 tons for food, clothing, medical supplies and other basic necessities, the M/V Anastasis is potentially suited to assist in any port city of the world. Secondly, they all share the common goal of presenting the Gospel to whoever will listen.

The leaders of the Anastasis were Don Stephens, an American missionary and the head of Mercy Ships International, and Alan Williams, a British missionary born in New Zealand.

Whilst the ship was in the middle of a three-year refurbishing project, a major earthquake hit the Athens area on February 24, 1981. The Anastasis crew responded to the disaster by distributing clothing and food to the many homeless victims, as well as providing spiritual counsel and relief.

It was at this time that Costas Kotopoulos, a sixteen-year-old Greek whose parents were divorced, made contact with crew members of M/V Anastasis. As Williams would later testify in court, “Young Costas approached us. He looked a bit sad, so we befriended him and accepted him like we would anyone anywhere.” He was given a Bible, at his request, and began reading it diligently. In addition, through his interaction with the Christians from the Anastasis, his life began to change.

⁴ Case No. 3/1992/348/421.

Costas, who lived with his father, visited the Anastasis on a number of different occasions, each time either dropped off by or accompanied by his father. A Greek court banned the visits after Costas' mother, Catherine Dougas, accused the members of the Anastasis of violating the Greek antiproselytism law.

In 1982, before the Anastasis left Greece, Don Stephens gave Costas the name and address of Costas Macris, a distinguished Greek evangelical leader and former missionary to New Guinea, who now runs the Hellenic Missionary Center in Athens. In this way, they hoped that Costas would be able to have fellowship with other young Christians. Almost two-and-one-half years later, Don Stephens and Alan Williams were notified, by an interested third party, that they were being tried for proselytism in Greece. They had not received any official notification or court summons. Costas' mother had filed suit against both them and Costas Macris on charges of "proselytism" and "support of the voluntary escape of a minor." The suit also demanded that the defendants be ordered to pay her 50,000 dracmas as pecuniary satisfaction for moral damage which she suffered. Believing it was their duty as Christians to fight for the right of religious expression, Stephens and Williams returned to Greece for the trial in December of 1984. At the trial, Costas' mother testified that the missionaries had ruined her son, that he no longer made the sign of the cross or believed in icons, that he now read his Bible daily and was a religious fanatic, that he no longer had ordinary sexual interests, and that the only time he stayed out late was when he attended meetings and Bible studies with other like-minded fanatics. Despite the fact that Costas was still a member of the Greek Orthodox Church and that the charge of having supported his "voluntary escape" was patently false, the judges found the defendants guilty. Their sentence, the harshest in over 150 years for this type of "offense" was three-and-one-half years imprisonment!

The defendants were freed on bail, pending appeal of their verdict. The conviction of the "Athens Three" became a global story overnight.⁵

As an international groundswell of public opinion rose against the Greek government, Greek officials seemed to harden rather than soften in their stance. Over 400,000 Americans alone signed petitions to Greek Prime Minister Papandreu. A number of U.S. congressmen sent letters asking the Greek government to reevaluate their stand. California governor Deukmejian wrote Greek president Sartzetakis expressing his "deep concern." So did President Reagan. However, the politically powerful Orthodox Church insisted that the government enforce the antiproselytism law and send the missionaries to prison.

⁵ See Don Stephens' book on the trial at first instance: *Trial by Trial* (Eugene, Oregon: Harvest House, 1985).

The appeal was scheduled for May 21, 1986. If the defendants lost, they would go to prison immediately. During the interim, YWAM's house counsel in Hawaii, Max Crittenden, contacted this writer. He asked if I could help by submitting a legal brief detailing the reasons the original decision should be overturned. In addition he requested me as former Director of Studies at the International Institute of Human Rights in Strasbourg, France, to come to the appellate trial and testify as an expert on human rights.

The trial lasted for four days – with extensive international press and television coverage (e.g., Reuters News Agency, London, and the European edition of *Time* magazine). The International Commission of Jurists sent an observer to ensure that the human rights of the defendants were upheld. I was on the stand for almost an hour, and my theological and legal arguments were surprisingly echoed by the Greek public prosecutor, who told the judges that, in his opinion, the state had made a mistake in prosecuting the case. Finally, the three-judge panel adjourned to deliberate. After conferring for 2 1/2 hours, they found the defendants innocent of all charges.⁶

2.2 The Government's argument

The prosecution in the “Athens 3” case relied upon arguments both of law and of fact to persuade the Athens Court of Appeal to uphold the convictions imposed by the court of first instance.

In law, the prosecution observed that the Greek antiproselytism statute was good law in Greece, and simply fleshed out the undefined but explicit prohibition against proselytism enshrined in the Greek Constitution. To question its validity would be to question the Constitution itself. The statute in its present form is not discriminatory (though prior to the Colonels' regime its application was limited to convincing or attempting to convince Greek Orthodox to leave their church, the existing version *totally* bans improper proselytism, regardless of the religion involved). Moreover, the law is explicit in its definition of proselytism:

By ‘proselytism’ is meant, in particular, any direct or indirect attempt 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 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 naivety (Law 1363/1938, as amended by Law 1672/39).

On the factual plane, the prosecution pointed to the age of the alleged victim: sixteen at the time. Clearly, they argued, this was a case of unduly influencing and

⁶ Material in the preceding paragraphs has been adapted from Montgomery, „The Christian Civil Liberties Union Wins Its First Case,“ *The Greenbag* [Simon Greenleaf School of Law – now the Law School of Trinity International University, Anaheim, California], No. 14 (July/August 1986).

corrupting a minor, to his personal and social detriment, and undermining his relationship with his family.

2.3 The successful defence

Against the prosecution's legal position, we argued along two lines. First, the Greek antiproselytism statute as interpreted by the lower court was inconsistent with Greece's commitment to the European Convention on Human Rights. Greece had signed and ratified the European Convention, containing the following two articles on freedom of religion and freedom of speech:

Article 9 (1). Everyone has the right to freedom of thought, conscience and religion; this includes the freedom to change one's religion or belief and freedom, either alone or in community with others and in public or private, to manifest one's religion or belief, in worship, teaching, practice and observance.

Article 10 (1). Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

Both of these articles are subject to certain restrictions (the second paragraph of each article sets these forth), but our brief contended that none of these restrictions applied to the facts of this case. Since Greece had accepted the compulsory jurisdiction of the European Court of Human Rights and had also just recently signed an article of the Convention allowing an individual to bring a petition before the Commission and Court in Strasbourg, this case could indeed properly be brought before the human rights legal machinery in Strasbourg, where the judgment of the national court would likely be overturned and perhaps the proselytism law itself struck down. To avoid this embarrassment, the Greek Court of Appeals should declare the defendants innocent.

Our second legal argument reminded the Court that the Greek Constitution of 1975 had incorporated the European Convention on Human Rights into Greek domestic law, giving the Convention priority over any contrary domestic law. This required the Appeals Court, at minimum, to interpret the antiproselytism statute in such a way that it did not contradict Articles 9 and 10 of the European Convention. Such an interpretation would result in an innocent verdict for the defendants.

Were the Appeals Court not to construe the antiproselytism law in a manner consonant with the European Convention (i.e., were it to argue that the law faithfully represented the true intention of the bare prohibition against proselytism in the Greek Constitution), this would put the Constitution and the European Convention on a collision course – resulting in no less than a constitutional crisis in Greek jurisprudence! Thus, the reasonable course of action for the Court of Appeals was to say, in effect, that whatever the undefined prohibition against proselytism means

in the Greek Constitution, it *cannot* mean something contradicting Articles 9 and 10 of the European Convention on Human Rights (as would be the case if Law 1363/1938, as amended by Law 1672/39, were held to apply literally against the defendants).

Furthermore, we raised the question as to whether the antiproselytism law, taken on its face, had any genuine application to the present scenario. The law criminalises attempts to change another's religion. But the crew of the Anastasis never suggested that Costas Kotopoulos cease his connection with the Orthodox Church. His subsequent joining of Pastor Macris' local, independent, evangelical, Protestant church was his own decision. What the defendants sought was that Costas enter into a personal, saving experience with the living Christ – not that he change his denominational affiliation or join any particular church.

On discovering that the chief judge of the Athens Appeals Court had studied in Germany, I made this point clear by using the distinction between the German verbs *wissen* and *kennen*: “to know formally” (as in scientific knowledge, *Wissenschaft*) versus “to know personally/be personally acquainted with.” The object of the evangelism by the crew of the Anastasis was not to alter Costas' formal, doctrinal subscription but to bring about a personal acquaintanceship with the Saviour common to all branches of Christianity, including the Eastern Orthodox Church.

On the factual issue of whether the evangelism had involved the “corrupting of a minor,” the public prosecutor himself, in his closing statement to the Court, conceded our point. He observed that Syntagma (“Constitution”) Square, the central square of Athens, was often populated at night by teenagers looking for thrills and drugs, and he reflected whether perhaps what Costas had received through his contact with the Mercy Ship Anastasis (Greek, not so incidentally, for “Resurrection”) might not be an answer to this. At least there was one sixteen-year-old not engaged in those activities . . .

And there was no way to demonstrate that the evangelism had had a negative effect on Costas' family. That family had been dysfunctional well before the encounter with the Anastasis: the parents had divorced and it was painfully evident that the mother had used the alleged proselytism of her son as a means of getting at her exhusband.

In sum, neither legally nor factually could the convictions of the “Athens 3” be upheld – and they were not.

3. Larissis et al.

We now turn to Greek convictions of evangelical Christians for proselytism which, not being overturned within the Greek court system (i.e., after “all domestic remedies had been exhausted,” as required for a case to be admitted in Strasbourg),

were ultimately consolidated and judged by the European Commission and Court of Human Rights.

3.1 The facts

In May of 1992, three Greek Air Force officers, D. Larissis, S. Mandalaridis, and I. Sarandis, all of Protestant Pentecostal persuasion, were cashiered by the Permanent Air Force Court of Athens for violating the antiproselytism statute and thereby not conducting themselves as officers and gentlemen. They were convicted of evangelising fellow Air Force personnel as well as civilians. Subsequent appeals in military and civilian courts did little more than to affirm their convictions, though sentences were reduced. Ultimately, their cases were taken to Strasbourg by the present writer, where the (now defunct) Commission, and later the Court of Human Rights, decided that their Convention rights had been violated relative to the evangelisation of civilians, but did not vindicate their evangelisation of military personnel.⁷

3.2 The Government's position

The Greek government argued as to the Greek antiproselytism law (1) that it was not inconsistent with the religious freedom guaranteed by Article 9(1) of the European Convention on Human Rights; (2) that it in fact supported the Convention by protecting the religious rights of the weak and of those who were satisfied with their religious position and did not want to be importuned by other religionists; and (3) that Article 9(2) of the Convention properly allows governments to restrict religious activity for the sake of public order and the rights of others.

On the facts in the case at hand, the Greek government maintained that the civilian proselytism engaged in by the applicants involved undue influence, based in part on the weakness of the subjects of the evangelism and also on the superior societal role a professional military officer represents. As to the applicants' evangelistic efforts within the military, the government argued that such activity *per se* weakened military discipline and therefore went against the interests of the state, must never be engaged in on military bases, and, where an officer evangelised someone of lower rank, undue influence and the consequent violation of the statute were inevitable.

3.3 The applicants' arguments

We strove mightily (and, ultimately, unsuccessfully) to convince the Commission and the Court that the Greek antiproselytism statute is in its very nature inconsistent with Article 9 of the European Convention on Human Rights. Our reasoning was –

⁷ Case No. 140/1996/759/958-60.

and continues to be – that the Greek statute is hopelessly ill-defined and overbroad, violating the principle of *nulla poena sine lege* as enshrined in Article 7(1) of the Convention: one cannot, on the basis of the vague language of the statute, predict whether or not one's expression of religious views will or will not transgress the Greek law and therefore trigger criminal sanctions. We repeatedly cited the Greek government's own, bizarre list of past prosecutions under the statute:

Greek Courts have held that certain individuals were guilty of proselytism when they compared the Saints to “figures decorating walls,” Saint Gerassimos to a “body stuffed with cotton” and the Church to “a theatre, a market, a cinema,” when they delivered a sermon by demonstrating a picture showing a multitude of unhappy people dressed in rags and when they said that “this is how they all are who do not accept my faith” (Court of Cassation, Decision No. 271/1932, Themis XVII, page 19), when they promised to Orthodox refugees to give them shelter under particularly favourable terms if they adopted the faith of Uniates (Court of Appeal of the Aegean, Decision No. 2950/1930, Themis B, page 103), when they offered a scholarship for studies abroad (Court of Cassation, Decision No. 2276/1953), when they sent to Orthodox priests pamphlets with the recommendation to read them and to apply their contents (Court of Cassation, Decision No. 59/1956, Law Tribune 1956, No. 4, page 736), when they distributed “so-called religious” books and prospectuses free to “uneducated peasants” or to “young pupils” (Court of Cassation, Decision No. 201/1961, Penal Chronicles XI, page 472) or when they promised to a young seamstress to improve her position if she abandoned the Orthodox Church whereof the priests were accused of exploiting society (Court of Cassation, Decision No. 498/1961, Penal Chronicles XII, page 212). More recently certain courts convicted some Jehovah's Witnesses on the grounds that they proclaimed the doctrine of their sect “with importunity” and because they accused the Orthodox Church that it constituted “the source of troubles for the people” (Court of Appeal of Thessaloniki, Decision No. 2567/ 1988), that they entered other houses under the guise of being Christians who desire to propagate the New Testament (Misdemeanour Court of Florina, Decision No. 128/1989) and that they tried to distribute books and booklets to an Orthodox priest inside his car after having told him to stop (Misdemeanour Court of Lasithio, Decision No. 357/1990).

Not so incidentally, our same objections have been properly raised to the French Assemblée Nationale's sect criminalisation law of 22 June 2000. That law introduces for the first time into French jurisprudence, in defiance of the historic protections of freedom of speech and of religious expression, the “*délit de manipulation mentale*.” What responsible commentators such as Jean-Claude Kiefer have observed concerning such legislation applies equally to the Greek antiproselytism statute:

Firstly, who is to give the definition – obviously subjective – of such “manipulation”? Where does one start, and where will it end?

The concept is too dangerous. Freedom is not monolithic and cannot be reduced to “mental correctness” – which has already been preceded by “political correctness” in our modern society.

Let us use, to begin with and indeed as our sole recourse, the existing legal statutes. Let us apply the law as it exists now to prosecute the religious cheats, the charlatans, and the sectarian kidnappers. There is no sense in trying to go beyond this.⁸

As to the government’s claim that the antiproselytism statute actually furthers religion by protecting the populace from unwanted interference with existing religious commitments, we pointed out the obvious: that the intent of Articles 9 and 10 of the Convention is to open the doors to freedom of expression both in general and in religious areas, not to offer protectionist possibilities to established or majority viewpoints. Indeed, it is precisely the minority and unpopular positions that require the guarantees contained in these Convention articles. We emphasised that in a pluralistic, democratic Europe, no government should treat its populace like children or the mentally defective who need to be protected from new or even offensive ideas. The Greek people should be considered mature enough to make their own religious decisions, accepting or rejecting the ideological wares offered to them in an open marketplace of ideas.

The government appealed, as we have noted, to the second paragraph of Article 9, which allows limited state interference in religious matters when such interference is “necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.” We countered that the antiproselytism law certainly was *not* “necessary” for such purposes, since existing general civil and criminal law was sufficient to prosecute cases of duress, undue influence, false advertising, obtaining property by deception, and similar perversions of legitimate religious evangelism. The public weal in no sense requires overbroad legislation that in effect kills fleas with atomic weaponry – and which patently has a chilling effect upon legitimate religious expression.

The logic should be clear: Article 9 guarantees not merely the freedom of religious belief, but also the freedom to “manifest one’s religion,” and such manifestation expressly includes, according to the Article, “freedom to change one’s religion or belief.” But to have the meaningful opportunity to change one’s religion, one must be able freely to encounter other belief-systems. *Ergo*, the Convention must be seen to guarantee the right to responsible evangelism without governmental obstruction.

⁸ *Dernières Nouvelles d’Alsace* [Strasbourg], 23 June 2000, p. 1. The French law as amended by the Senate for final vote in the House omits the expression “manipulation mentale,” but commentators in general agree that the substance of the law remains unchanged by this semantic change.

On the facts of the instant case, the defence had to meet the government's condemnation of both civilian and military evangelisation on the part of the applicants. In presenting their gospel to civilians, the three Air Force officers were engaged in an activity which had previously been upheld by the European Court of Human Rights in the *Kokkinakis* case. We were successful in arguing that our case could not in this respect be distinguished from *Kokkinakis* on the facts: the objects of the civilian evangelism here, as there, were not so deficient in I.Q., understanding, or maturity as to have been improperly importuned religiously by the applicants.

As for applicants' evangelism within the military, we had a much harder, and ultimately unsuccessful, row to hoe. Even civil libertarian Judge de Meyer, who in his concurring opinion strongly agreed with us that "the [Greek] law in the present case is contrary to the Convention in its very principle, since it directly encroaches on the very essence of the freedom everyone must have to manifest his religion" – even Judge de Meyer went along with the majority of his colleagues in holding that, given the existing Greek law, the applicants' evangelistic efforts within the military "abused their position and rank."

We still contend, however, that our counter-arguments should have prevailed, vindicating even applicants' attempts to present Christ to fellow military personnel: (1) Christian work within the armed services has been an international, indeed European, tradition at least since the founding of the Officers' Christian Union in the British armed services in 1923; the OCU by its Articles justifies and encourages evangelism without restriction within and between the military ranks. It follows that evangelism in the military is not foreign to the general European lifestyle which the Strasbourg Court takes into account as background for its rulings. (2) One must not be forced to give up his or her human rights or civil liberties on joining the military. Indeed, for the Christian, evangelism is a universal duty and privilege, as enshrined in Jesus' so-called "Great Commission" (Mark 16:15 and parallel passages): "Go into all the world and preach the gospel to every creature." (3) We agree that if the particular beliefs of the individual engaging in evangelism in the military could be shown to have a potentially deleterious effect upon military discipline, they could legitimately be restrained (e.g., Quaker pacifism, New Age anarchism); but the beliefs of our applicants, standing in the tradition of historic, evangelical, Trinitarian Christian faith, should in no wise have been construed as imperiling military efficiency or state interests, or as undermining the security of the state. (4) The objects of applicants' evangelism (Air Force personnel) were old enough to die for their country, so they were presumably old enough to make mature religious decisions, accepting or rejecting applicants' beliefs – and the facts of the instant case make clear that this was precisely what they did.

4. The current legal position:

The Greek cases and the European Court's conservatism

Commentators have quite generally remarked that the European Court of Human Rights hesitates to upset the legal systems of the Member States, even when this would hardly result in a state's departing from the well-established and highly respected human rights club represented by the ECHR.⁹ In the Greek proselytism cases, this has meant that, whilst the Court has clearly tried to uphold freedom of evangelism in general by vindicating the applicants, it has (1) refused to declare the Greek antiproselytism statute incompatible with the Convention, in spite of its patent ambiguities and provable chilling effect upon freedom of religious expression, and (2) narrowed permissible evangelism to the minimum, restricting it in effect to "transactions among equals," even though it should be obvious that hierarchical and superior-inferior relationships are part of the very fabric of all societies and that to remove legal protection for evangelism in such contexts is to open a Pandora's box for religious repression and the discriminatory treatment of minority religious positions.

Supporters of the adversarial system have often noted that truth is best defended in the context of opposition. The European Court operates more in the inquisitorial than in the adversarial mode, but we contend that in the cases discussed in this chapter the strongest reasons so far developed have been offered to encourage the Court to move in a more radical, principled, and dynamic direction vis-à-vis issues of religious freedom. Should such argumentation be accepted in future cases, Europe could well become in practice what it is in theory: a level playing field for all belief-systems.¹⁰

⁹ E.g., Malcolm D. Evans, *Religious Liberty and International Law in Europe* (Cambridge: Cambridge University Press, 1997), especially p. 365; and Montgomery, "When Is Evangelism Illegal?," *New Law Journal*, 10 April 1998, pp. 524-25. The Strasbourg Court clearly believes that "too great an interference in the domestic policies of Contracting States would damage its legitimacy" (Jessica Simor, "Human Rights: Strasbourg vs Luxembourg; the Human Rights Act and EC Law," Paper presented at the Bar European Group Annual Conference, Trier, Germany, 6-8 May 1999, p. [12]).

¹⁰ Cf. Montgomery, *Human Rights and Human Dignity* (2d ed.; Edmonton, Alberta: Canadian Institute for Law, Theology & Public Policy, 1995). For a book-length treatment of the Greek evangelism situation, with the full texts of the legal documents and pleadings in the cases discussed in this essay, see Montgomery, *The Repression of Evangelism in Greece: European Litigation vis-à-vis a Closed Religious Establishment* (Lanham, Maryland: University Press of America, 2000).