

Current Debates About Religion and Human Rights in Greece

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Abstract This paper addresses the topics of Religion and Human Rights in the Greek context. More specifically, it explores key Human Rights issues from the perspective of Religious Freedom, namely the legal personality of local religious communities, provisions on proselytism and places of worship, civil rights and youth engagement in the relevant debates. Furthermore, it highlights the dynamics developed between the State regulations, the religious communities and the Human Rights debates in Greece. In this perspective, it enhances as important the fact that Greece as an EU member State cultivated during the last decades a legal and political culture that belongs to the modern liberal democracies tradition. Despite this progress, a variety of challenges is to be faced by Greek society: the rapid changes in global geopolitics, the new migration waves, and the cultural and religious pluralism along with the social and political instability caused by the debt crisis bring to the forth discontent. In this sense, the overall challenge for the Greek society is to approach an understanding of human rights that may function as a framework that guarantees justice and equality for all.

Introduction

Greece is a country of about 10.5 million inhabitants. The vast majority of Greek citizens are recorded as Orthodox Christians, while a series of religious communities and an unknown percentage of people with a non theistic stance complement the “human map”. Besides the Orthodox Christians, other religious communities that can be found in Greece are: Roman Catholics, Protestants, Old Calendarist Orthodox, Muslims, Jews, Hindus, Jehovah’s Witnesses. There would be value in a thorough study of the religions of people living in Greece as non recorded immigrants (sans papier).

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The stance of the Greek State and Greek society at large is framed from the fundamental political texts and agreements that Greece has signed and ratified, e.g.: Art. 18 of the Universal Declaration of Human Rights, Art. 18 of the International Convention on Individual and Political Rights, Art. 9 of the European Convention on Human Rights, etc.

Greek society used to be a traditional society with quite a solid religiosity sourced from the Orthodox Tradition. Nowadays the Greek society is a society in transition suffering under severe economic and political problems and facing the most complex problems of modern multiculturalism without having the luxury of an adjustment period (Tsironis 2013). Problems that have been under debate (and to a great extent still remain unsolved) in other European societies come to the foreground at some urgency.

It is quite indicative the fact that in recent public opinion analysis the Greeks have their highest percentage by item on the topic “Solidarity with Member States in financial difficulty” (50, 45% on *their* rights as European Citizens) while only a 12% on the topic “Immigration, freedom of movement and asylum right” (Eurobarometer 2012a, b). The latter topic is quite low in pan-European level (EU27 18%), considering however the priority that this issue has in political life during the last decade in Greece it is easy to assume the ambivalence of the situation as it is conceived in public opinion. In the same Report one can see that the protection of Human Rights is still valued by the Greeks as a matter of priority for the European Parliament. Still, it is self-evident that interest in the protection of European citizens in Greece and elsewhere in European Union isn’t identical with the overall interest in Human Rights implementation. The appeal of Human Rights protection in conditions of economic crisis will be one of the greatest challenges for all European societies.

Prevailing Religion, Religious Freedom, and Human Rights

Prevailing religion and *Religious freedom* are the two main poles of the formulation of State and Church relations in Greece according to the Constitution, as in practice they constitute a permanent threat of conflict.¹ The interpretation of these two terms is critical in order not only to describe the actual system of State and Church relations but also to evaluate the real protection of human rights.

It is true that the Constitution of 1975 introduced a more liberal view on Church and State matters than the Constitution of 1952. It is important to note that during the preliminary phase of discussions and proposals between the parties, many were in favor of an eventual separation between the Church and the State. Arguments, such as the need to conserve the social unity and the religious homogeneity of people after the dictatorship, inhibited a radical reformation (Konidaris 2000, p. 95).

¹ The following eight paragraphs are part of previous research and have been published in: Nikos Maghioros, *State and Church in Greece: “To reform or not to reform?”*, Droit et Religions – Annuaire, vol. 2 t. 1 (2006–2007), pp. 496–534.

The first part of the Constitution (2001) includes the *basic provisions* of the *form of Government* (Art. 1 and 2) and the *relations of Church and State* (Art. 3). The provisions of Art. 3 are not all new, as they already existed in various forms in all previous Constitutions. Article 3, par.1, establishes the Orthodox Church as the prevailing religion and affirms that the Orthodox Church (a) is inseparably united in doctrine with the Ecumenical Patriarchate of Constantinople and with every other Orthodox Church, (b) is obliged to apply the Orthodox Canon Law and follow the Tradition and (c) is autocephalous and self-governing within the legal framework of its Statutory Charter (L. 590/1977), in compliance with the Patriarchal Tome of June 29, 1850 and the Synodal Act of September 4, 1928.

In the second part of the Greek Constitution, entitled *Individual and Social Rights*, Art. 13 guarantees religious freedom. The important thing is that the right to manifest one's religion and perform rites of worship established in paragraph 1, is not subject to any constitutional revision. This includes the right to found religious associations and establishments, which acquire legal status, but only after complying with the State laws on such acquisition. Theoretically the right to found religious associations includes the right to choose the method of organization. In addition, there is the right to free administration according to the particular institutions and rules of the religious community. On the other hand, religious freedom has some limitations as well. These limitations are prescribed by law and are necessary in a democratic society, in the interest of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others (Papastathis 2003; Konidaris 2000; Naskou-Perraki 2000).

There is *freedom to practice* any *known* religion; individuals will be free to perform their rites of worship without hindrance and under the protection of the law. The performance of rites of worship must not offend public order or public morals. No one may be exempt from their obligations to the State or may refuse to comply with the law by reason of their religious convictions. The *freedom of worship*, in light also of Art. 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms, grants individuals the right, either alone or in community, in public or private, to manifest their religion or belief, in worship, teaching, practice and observance. Finally, individuals have the right to construct churches and other religious buildings.

The interpretation of Art. 3 in light of Art. 13 gives a more liberal view on the relations between the Church and the State as it supports the independence of the Orthodox Church and other denominations as well as the recognition of their internal structure and organization. Another interpretation of Art. 3 in combination with Art. 72 par. 1 supports the "State-law rule" system by accepting that the statutory Charter of the Church of Greece should in any case be adopted by the plenary session of the Greek parliament (Papastathis 2005, pp. 117–118).

Some scholars explain that Art. 72 par. 1 with the term "subjects of Art. 3" incorporates all the paragraphs of Art. 3 and not only the first. The Statutory Charter of the Church (Art. 3 par. 2) could be either a law of the State or an internal law adopted only by the Church. In this case the internal law of the Orthodox Church and other denominations and religions is protected directly by Art. 13, as it is a main

prerequisite for religious freedom. This way all Canons of Art. 3 par. 1 or the Code of Canon Law of the Catholic Church are recognized, unless they offend public order or the moral conceptions (Art. 13 par. 1), the Constitution and the laws of the State. We agree with the opinion that the relationship between the Church and the State can be characterized as *sui generis*, since there is no complete separation nor is there an established Church (Konidaris).

Close to Articles 13 and 3 is the question of the legal status of denominations and religions in Greece. The Orthodox Church, the Israelites (Papagrigoriou 1997) and Muslims are the only groups considered to be “legal entities of public law” (Naskou-Perraki 2000). Other religions are considered “legal entities of private law” and are subject to the provisions of the Civil Code regarding corporations.

An insightful portrayal of the positions on Human Rights of all religious communities in Greece goes beyond the limits of a short presentation. One thing to be said is that no official declaration against human rights has been recorded from the religious communities. One can assume that those people who belong to zealot groups as well as those who are devotees in communities that have expressed a strong opposition to human rights (either within Greece or outside the country) could adopt an -at least- relativistic approach towards the universality of human rights. On the other hand, the appeal to human rights seems all too often to be superficial. The religious communities regularly use the concept of human rights in defense of their own position in the public sphere; whether they respect the core of human rights as universal and inalienable entitlements and basic principles in social life as well as a point of reference within their own “community-reality” is a matter that still remains under debate.

At this point it is more convenient to present a first approach on the position of the Greek Orthodox Church due to the fact that the Orthodox Church has a stable and lengthy institutional relation with the Greek State. Some scholars indicate a difficulty for the Orthodox Church to totally accept the ideas of human rights as principles above other principles of social life, especially those which belong to the traditional structure of Greek society. There are theologians who severely criticize some of the concepts and legal facets connected with human rights, while others support the idea that there are no substantial problems in the acceptance of human rights. Some of them even call on orthodox theology to turn to active support of human rights in Greece and elsewhere. The official papers coming from the Church and from academic theology in principle display a positive position towards human rights and often an attempt to balance traditional ideals and modern challenges so as to ensure the avoidance of internal unrest.

Religions, State, and Human Rights

Although notable improvements have been recorded during the last few decades, there are still issues of debate, dialogue or tension between the State and the religious communities in Greece. Some of the main topics of debate are presented here below:

Legal Personality

The Roman Catholic Church in Greece has an unidentified legal status which creates confusion concerning the recognition of its Canon Law, the creation of new dioceses, the construction of new churches as well as regarding taxation matters (Maghioros 2003).

Proselytism

This prohibition covers any known religion, including the Orthodox religion, and is punishable under the Mandatory Law 1363/1938 as it was amended by Mandatory Law 1672/1939: “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 inducement or promise of an inducement or moral support of material assistance, or by fraudulent means or by taking advantage of his inexperience, trust, need, low intellect or naiveté”. The crime of proselytism is committed only if illegitimate means have been used. Therefore, the diffusion of opinions by means of the distribution of brochures does not in itself constitute the crime of proselytism. The proposal of the Greek National Commission for Human Rights² is to repeal the applicable provisions in force on proselytism. Criminal sanctions for proselytism have not been repealed.

² “NCHR is a statutory National Human Rights Institution having a consultative status with the Greek State on issues pertaining to human rights protection and promotion. The creation of NCHR emanated from the need to monitor developments regarding human rights protection at the domestic and international levels, to inform Greek public opinion on human rights-related issues and, above all, to provide guidelines to the Greek State aimed at the establishment of a modern, principled policy of human rights protection. A source of inspiration for the creation of NCHR was the Paris Principles, adopted by the United Nations and the Council of Europe. According to Law 2667/1998, by which it was established, NCHR has the following substantive competences:

1. The study of human rights issues raised by the government, by the Convention of the Presidents of the Greek Parliament, by NCHR members or by non-governmental organisations;
2. The submission of recommendations and proposals, elaboration of studies, submission of reports and opinions for legislative, administrative or other measures which may lead to the amelioration of human rights protection in Greece;
3. The development of initiatives for the sensitisation of the public opinion and the mass media on issues related to human rights;
4. The cultivation of respect for human rights in the context of the national educational system;
5. The maintenance of permanent contacts and co-operation with international organisations, similar organs of other States, as well as with national or international non-governmental organisations;
6. The submission of consultative opinions regarding human rights-related reports which is to submit to international organisations;
7. The publicising of NCHR positions in any appropriate manner;
8. The drafting of an annual report on human rights protection in Greece;
9. The organisation of a Human Rights Documentation Centre;

Places of Worship

According to Art. 27 L 3467/2006 § 1, the approval or opinion of the local ecclesiastical authorities of the Greek Orthodox Church is not required for the establishment, construction or operation of a temple or church of any religion or doctrine, with the exception of the Greek Orthodox Church. Any provision stating otherwise shall be repealed. § 2, an application to obtain approval for the establishment, construction or operation of a temple or church of any religion or doctrine shall be directly submitted to the Ministry of National Education and Religious Affairs and not to the local ecclesiastical authorities. Any provision stating otherwise shall be repealed.

According to a report of the US Department of State from 2001: “Muslim leaders in Athens criticized the absence of a government funded mosque and recognized Muslim clergy in the city. Muslims in Athens worshipped in approximately 120 informal (unregistered) mosques operating in legal cultural halls, and they travelled to Thrace for official Islamic marriages and funerals.”

Civil Funeral—Incineration

Art. 35 of the Law 3448/15.03.2006 stipulates the following: 1. Cremation of the deceased, for natives or foreigners, is allowed for those whose religious beliefs allow for cremation after death. 2. A precondition for such cremation is an explicit declaration of the deceased, not based on oath or condition, for their desire to engage in such action, or a similar declaration from their relatives, related by blood or by marriage, up to the fourth degree, based on the same class line. In case of disagreement between the relatives of the same class, the Public Prosecutor of the area where the deceased is kept shall decide upon this matter. Regarding minors, such declaration is made by both parents or by the caretaker/provider of the minor according to Articles 1510 et seq. of the Civil Code. 3. A cremation license is granted by the Municipality or the Community where the Center of Cremation is located—the place where cremation is conducted). 4. A presidential decree issued upon request by the Ministers of Internal Affairs, Public Administration and Decentralization, the Minister for the Environment, Urban Planning and Public Works and the Minister of Health and Social Solidarity, will determine the places where centers for the cremation of the deceased will be established, the terms and regulations of the services, as well as any other specific preconditions that exist for cremation. In determining the places where cremation of the deceased will be established, a decision from the Municipality or Community is required. A common decision of the above-mentioned Ministers specifically regulates relative issues, as well as other

10. The examination of the ways in which Greek legislation may be harmonised with the international law standards on human rights protection, and the subsequent submission of relevant opinions to competent State organs.” <http://www.nchr.gr/index.php/2013-04-03-10-13-40/2013-04-03-10-14-20>. Accessed Oct 28 2014.

pere, the European Refugee Fund (ERF), the Green Paper on an EU approach to managing economic migration (COM (2004) 811), the “Common Agenda for Integration—Framework for the Integration of Third-Country Nationals in the European Union” (COM (2005) 389), the Communication on policy priorities in the fight against illegal immigration of third-country nationals (COM (2006) 402) and others, remained “shadow policies” (Petrou 2008).

In this sense, the greatest challenge for Greek youth, as well as for young Europeans within a larger scope, is to approach an understanding of human rights that is extroversive and supportive, in solidarity with every human being. A basic prerequisite for social prosperity based on common European values is mutual understanding and cooperation for the creation of opportunities, rules and social activity principles that are based on respect for individual dignity and integrity as well as cultural, religious and other differences. In this way, human rights will be understood not only through the personal scope of needs and interests but also as a framework that guarantees justice and equality for all.

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