

# Freedom to Propagate the Religion and Freedom to Convert – A Brief Canonical Study

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In India, the religious conversion is always problematic and generates misunderstanding between the religious communities themselves, between the civil government and the religious groups. The State having the right and duty to maintain peace and order in the society guarantees the religious freedom and at the same time adopts laws to regulate the conversions. Whether the laws adopted by the different federal states are constitutional or not is a big debate. Without analyzing the historical, sociological and juridical context of the civil laws related with the religious conversion or religious freedom, let me present the regulations of the present Codes of canon law of the Catholic Church with regard to the forcible conversion of religion.

The Catholic Church in India is always criticized that she encourages the conversion by use of force or by fraudulent means and she does not respect the right of conscience of the people especially the poor and the *dalit*. But the Codes of canon law show how the Catholic Church claims her right to propagate the religion using the proper means and how she condemns the conversion sought by force or by other illegal means.

## **1. The Right to Propagate the Religion According to the Codes of Canon Law**

The term 'proselytism' often takes a negative connotation, but there are two types of proselytism, which are often overseen, and ignored. One who wishes to propagate actively his religious convictions is called proselyte and it is no more related to the one who listens to

the propagation or one who converts to other religion as in the case of ancient Judaism. The desire to propagate the religion is often associated with the desire of converting the one who listens to. After the second Vatican Council, the Catholic Church gives importance to the subject of proselytism and she clarifies which type of proselytism she encourages to propagate its doctrines and which one she negates and condemns.

### **A. Two Types of 'Proselytism'**

Speaking of 'proselytism' in general is not accepted any more in the context of the recognition of the religious freedom in the democratic countries. The 'proselytism has to be qualified and there are two types of proselytism: Acceptable or genuine proselytism and unacceptable or bad proselytism. This distinction is essential to understand better the religious freedom granted to all people and to all the religious communities in the democratic countries. The Catholic Church as well as all the Christian Churches have already tried to make this distinction.

Between the years 1954 to 1960s, the Ecumenical Council of Christian churches has made a difference between proselytism and witness.<sup>1</sup> However, the concept of proselytism was still negative and it did not differentiate between genuine and bad proselytisms. During the second Vatican Council, the majority of the council fathers expressed their views that the proselytizing activities are more of the non-catholic Churches. For example, the Spanish cardinal De Arriba y Castro explained that the Decree on Ecumenism must include a suggestion to the non-catholic brethren not to involve in the proselytizing activities.<sup>2</sup> The council fathers expressed their wish that the Catholic Church should collaborate with other churches in the missionary activities with an ecumenical spirit respecting each other and the conscience of the non-Christians:

“Insofar as religious conditions allow, ecumenical activity should be furthered in such a way that, excluding any appearance of indifference or confusion on the one hand, or of unhealthy rivalry on the other.

Catholics should cooperate in a brotherly spirit with their separated brethren, according to the norms of the Decree on Ecumenism, making before the nations a common profession of faith, insofar as their beliefs are common, in God and in Jesus Christ, and cooperating in social and in technical projects as well as in cultural and religious ones" (AG, 15).

With regard to the religious freedom, the council fathers wished that the Catholic Church must have the right to propagate its doctrine but with the condition that she never uses the force of any category to convert the non-Christians to the catholic faith:

"Religious communities also have the right not to be hindered, either by legal measures or by administrative action on the part of government, in the selection, training, appointment, and transferal of their own ministers, in communicating with religious authorities and communities abroad, in erecting buildings for religious purposes, and in the acquisition and use of suitable funds or properties. Religious communities also have the right not to be hindered in their public teaching and witness to their faith, whether by the spoken or by the written word. However, in spreading religious faith and in introducing religious practices everyone ought at all times to refrain from any manner of action which might seem to carry a hint of coercion or of a kind of persuasion that would be dishonorable or unworthy, especially when dealing with poor or uneducated people. Such a manner of action would have to be considered an abuse of one's right and a violation of the right of others" (NA, 4).

The council fathers are very clear of this principle of non-coercion in the missionary activities since using the force to convert others to the catholic faith is against the moral law:

"In the exercise of their rights, individual men and social groups are bound by the moral law to have respect both for the rights of others and for their own duties toward others and for the common welfare of all. Men are to deal with their fellows in justice and civility" (NA, 7).

We don't find the term 'proselytism' in the final texts of Vatican II. However the central commission of the Council had prepared a text in 1962 in which we find the condemnation of proselytism:

"The Church exhorts its faithful to act with wisdom, towards those of the outside (Col 4, 5), while abstaining from any action open or hidden related to proselytism which is repudiated and all the improper or dishonest means (like the money, the promises, the lies, the threats or the constraint); [...] so that they endeavor to spread the light of the life by using natural and supernatural means which God himself uses".<sup>3</sup>

The central commission did not insert these phrases in the final text, since the content of these phrases are explained in the Decree on Ecumenism. By the words 'the proselytism which is repudiated', it is clear that the council fathers tried to distinguish between the acceptable and unacceptable proselytisms

In 1965, the Ecumenical Council of Churches and the Catholic Church formed a joint commission to study about the cooperation in the missionary activities between the different Churches. This commission did not define proselytism, but it explained the improper means of exercising the missionary activities. In 1970, this commission prepared a report, which differentiates between improper or unacceptable proselytism and common witness.<sup>4</sup> Ten years later, the same commission prepared an evaluation of the initiatives taken by different Churches to curtail the improper missionary activities.<sup>5</sup>

By these documents, the Catholic Church as well as the council of ecumenical churches tried to differentiate between the acceptable and the unacceptable proselytism. For them, the term proselytism is not always negative and there is an acceptable proselytism, which the civil governments must accept, and the Churches must follow sincerely in their missionary activities. The civil governments cannot condemn or penalize all proselytism; otherwise it will result in denying the religious freedom of the religious communities and the citizens. The religious

communities have the right to propagate their religion or doctrine and the people have the right to choose their own religion at their liberty.

Here we can cite the decision of the European court of human rights. In the case of *Kokkinakis v. Greece*,<sup>6</sup> the court held that the right to propagate the religion includes the right to influence others, otherwise the right to change the religion or belief, which the article 9 of the European convention<sup>7</sup> evokes will be of no sense. Only the unacceptable proselytism has to be forbidden. The Indian civil courts do not make such a clear distinction. However they accept the Church's right to propagate the religion and condemn the illegal activities in the name of 'mission'. The two following civil cases are very important to understand how the Indian civil courts interpret the terms 'propagation of the religion' and 'conversion': *Yulitha Hyde v. State of Orissa*<sup>8</sup> and *Rev. Stanislaus v. State of Madhya Pradesh*.<sup>9</sup>

Basing essentially on the distinction between the acceptable and unacceptable proselytism, and on the missionary activity and religious freedom of the Church, as established by the texts of Vatican II, the present Latin as well as the Oriental Codes of canon law insist on the inherent right of the Catholic Church to propagate the religion.

### **B. The Inherent Right of the Catholic Church to Evangelize**

The Catholic Church has always asserted her freedom to do her mission in the whole world. Through the centuries, in all the historical, political and social circumstances, she affirmed her sovereignty in the field of the evangelization. She claimed her right to evangelize at the time of Byzantine cesero-papal period, at the time of the interferences of the Germanic Empire, at the time of the influence of the Gallicans and even when the other posterior abusive political systems intervened in the activities of the Church. Similarly, outside Christendom, she asserted her right to evangelize in the empires of non-Christian rulers. In the XVIII<sup>th</sup> to XX<sup>th</sup> centuries when the world underwent different political changes and the religion was overlooked or kept apart from the governance of the civil society, various popes have claimed this right of the Church to evangelize. Without recalling all the evolution or

the development of the philosophical and theological thought, let us analyze the position of the Catholic Church with regard to her mission *ad gentes*, starting from the Code of 1917 of canon law.

The Code of 1917 treated adequately the mission *ad gentes*. It is for the first time, the term 'mission' appeared in the official collection of canon law.<sup>10</sup> The Code affirmed that the Catholic Church has the right to evangelize in all nations independent of any civil authority (c. 1322/1). But it is surprising that this Code does not qualify this right as the 'inherent right' of the Church. The reasons for this omission are out of our focus here.

However, the revised Code of 1983 does not fail to mark it as an inherent right of the Catholic Church. The very first canon of its third book explains:

"It is the obligation and inherent right of the Church, independent of any human authority, to preach the gospel to all peoples, using for this purpose even its own means of social communication, for it is to the Church that Christ the Lord entrusted the deposit of faith, so that by the assistance of the Holy Spirit, it might conscientiously guard revealed truth, more intimately penetrate it, and faithfully proclaim and expound it" (CIC, c. 747/1).

The Oriental Code of 1990 also asserts this right of propagation as 'inherent' (CCEO, c. 595/1).

The Catholic Church claims this right as inherent, since she cannot exist without doing the evangelization or announcing the Gospel. In other words, the obligation of this mission has its origin in her foundation: "... it is to the Church that Christ the Lord entrusted the deposit of faith..." (c. 747/1). Thus, this inherent right of the Church has a divine origin. The Church announces the Gospel to all people and to all nations with the only aim of saving the souls and of protecting the fundamental rights of all people. Hence, she announces not only the spiritual values of the Gospel, but also the moral and social values (c. 747/2; 768).

The 'inherent right' does not mean that the Church has all the authority and the power to spread the Gospel, as she likes. The Catholic Church makes it clear that the faith cannot be imposed; it can only be proposed. To be a true faith, it has to be free from any coercion. According to her, a person cannot be punished or condemned if he refuses to accept the Gospel or catholic faith, but she has the right to protect the faith of her disciples.

## **2. The Principle of Non-Coercion in Religious Conversion According to the Codes of Canon Law**

### **A. Two Stands of the Catholic Church**

When we say that the Church does not want to impose its principles and doctrines on others, there are two categories of people she classifies; the first type is the non-Christians and another is the heretics, the schismatic and the apostates. With regard to the non-Christians, she is very clear that she does not have any right to constrain them, whereas with regard to heretics, schismatics and apostates, she claims that she has the right to use the force in order to protect the truth and the faith. This two faced principle is practiced all along the history and mission of the Church. The legal texts and the catholic tradition explain this clearly.

Let us analyze briefly how Gratien presents this principle in his collections made in 1140 (Gratien's Decret). In the first part, *Distinctio* 45, c. 3, he quotes the text of Gregory the Great addressed to Paschase, the bishop of Naples: "Some have to be brought to the catholic faith not by the rude way but gently".<sup>11</sup> Gratien classifies this text in the context of the ministry of the bishops and by doing so, he wants to clarify that the Church announces the Gospel in gentle ways and that she advises her ministers not to abuse their role to impose the faith on others. Similarly, in the fifth chapter of the *Distinctio*, he cites the c. 56 of the fourth council of Toledo (633 AD): "The Jews should not be forced to accept the faith, but if they accept the faith and are converted to Christianity, they should be forced to protect it".<sup>12</sup> In the second part of his collection, Gratien affirms clearly that the heretics can be

forced in order to protect the faith, whereas the pagans and the non-Christians can never be forced to adhere to the Christian faith.<sup>13</sup> The fundamental reason behind this principle of coercion with regard to the heretics seemed to be that the truth has to be protected and that there is no right to support the errors.

Similarly, the Decretales of Gregory IX contain the texts concerning the two attitudes of the Church with regard to the Jews and the heretics: the Jews and the other non-Christians can never be forced to accept the Christian faith, whereas the heretics who accepted once willingly the Christian faith can be enforced to defend the faith.<sup>14</sup> From these legal collections and other writings of the theologians, we can conclude that the Church was practicing the principle of non-coercion with regard to the conversion of the non-Christians.

### **B. In the Present Codes of Canon Law**

The present Codes of canon law reflect the tension between the protection of the truth and the freedom of conscience. In other words, they treat the ancient principle of two attitudes of the Church in modern context. They penalize the heretics, the schismatics and the apostates (*CIC*, c. 1364; *CCEO*, c. 1436/1), but they affirm clearly that the non-Christians can never be constrained to adhere to the Catholic faith (*CIC*, c. 748/2; *CCEO*, c. 586).

The Codes justify the coercion with regard to the heretics, the schismatics and the apostates. The responsibility and the right to protect the truth are found in the nature of the deposit of the faith itself (*CIC*, c. 747/1; *CCEO*, c. 595). Whoever becomes a catholic willingly and voluntarily must believe by divine and catholic faith all the things "which are contained in the word of God as it has been written or handed down by tradition, that is, in the single deposit of faith entrusted to the Church, and which are at the same time proposed as divinely revealed either by the solemn *magisterium* of the Church, or by its ordinary and universal *magisterium*, which is manifested by the common adherence of Christ's faithful under the guidance of the sacred *magisterium*. All are therefore bound to shun any contrary doctrines"

(*CIC*, c. 750/1; cf. *CCEO*, c. 598). Whether the preoccupation of the protection of the truth is contrary to the freedom of conscience is a debate, which is adequately discussed by a good number of canonists today.<sup>15</sup>

With regard to the conversion of the non-Christians, the present Codes exhort solemnly that “it is never lawful for anyone to force others to embrace the catholic faith against their conscience” (*CIC*, c. 748/2; cf. *CCEO*, c. 586). Already, the Code of 1917 contained this principle: “No one should be constrained to embrace the Catholic faith against his will” (c. 1351). The canonists are of the opinion that this canon is the result of the long time principle of non-coercion of the Catholic Church with regard to the non-Christians.<sup>16</sup>

The second Vatican council insisted on the religious freedom basing on the human dignity and the respect of the conscience of others.<sup>17</sup> The fathers of the Commission for the revised Code wanted to include the principle of non-coercion from the first schema of the Code.<sup>18</sup> Their thinking was certainly influenced by the Vatican council’s declaration on the religious freedom:

“It is one of the major tenets of Catholic doctrine that man’s response to God in faith must be free: no one therefore is to be forced to embrace the Christian faith against his own will. This doctrine is contained in the word of God and it was constantly proclaimed by the Fathers of the Church. The act of faith is of its very nature a free act. Man, redeemed by Christ the Savior and through Christ Jesus called to be God’s adopted son, cannot give his adherence to God revealing Himself unless, under the drawing of the Father, he offers to God the reasonable and free submission of faith. It is therefore completely in accord with the nature of faith that in religious matters every manner of coercion on the part of men should be excluded. In consequence, the principle of religious freedom makes no small contribution to the creation of an environment in which men can without hindrance be invited to the Christian faith, embrace it of their own free will, and profess it effectively in their whole manner of life” (*DH*, n° 10).

Thus, the Fathers of the commission added in the schema of 1980, the c. 1351 of the Code of 1917 but by supplementing the words “against the conscience”.<sup>19</sup> In the schema of 1982, they proposed still some more modifications. They insisted the condemnation of the action of forcing somebody to embrace the catholic faith and so the words “it is never lawful” were added. These words, which have the origin in Roman law, emphasize the legal effect and find its unique place in canon law.<sup>20</sup> And finally the canon 748/2 states, “it is never lawful for anyone to force others to embrace the catholic faith against their conscience”.

The Oriental Code of 1990 is still more serious and clear by stating that “it is strictly forbidden to compel someone, to persuade him in an inappropriate way, or to allure him to join the Church; all the Christian faithful are to be concerned that the right to religious freedom is vindicated so that no one is driven away from the Church by adverse harassment” (c. 586). By inserting the adverb “strictly”, the Oriental Code shows how much the Catholic Church is against the forcible conversion.

The Codes of canon law not only discourage the forcible conversion, but also they prescribe some regulations and even penal sanctions to those who violate this principle of non-coercion. Let us analyze them briefly.

### **3. The Canonical Regulation Concerning the Proselytizing Activities and the Forcible Conversion**

#### **A. The Administration of Baptism**

Who can be the members of the Church and how does one become the member of the church are the important questions for the Codes of canon law. It has to be remembered that that these codes are influenced by the ecclesiology of the second Vatican Council. Baptism is the gateway of all the sacraments and a catholic is the one who is baptized in the Church. The Codes do not limit with this condition. They demand the full communion of the faithful (*CIC*, c. 205; *CCEO*, c. 8), which requires the personal affiliation. Three signs mark the full

communion: the profession of faith, the sacraments, and the ecclesiastical governance. These three elements presume that the faithful receive them freely and without any external force. God has given to the human beings the intelligence and the free will. By his free consent, each one is at liberty to listen to the Word of God and to be a member of the Church. The personal affiliation to the Church or the full communion means this type of free decision-making and there could not be any force of whatsoever from exterior.

### ***1. Manifestation of the Desire to Receive the Baptism by the Non-Christian Adults***

The Codes impose very strict conditions to the non-Christians to become members of the Church. An adult has to explicitly manifest his consent to receive the baptism (*CIC*, c. 865/1; *CCEO*, c. 682, 788). Even at the time of danger of death, this condition is necessary (*CIC*, c. 865/2; *CCEO*, c. 682). The other conditions to receive the baptism are the sufficient knowledge of the truths of faith and of the duties of a Christian; adequate period of living as a catechumen (*CIC*, c. 865/1; *CCEO*, c. 682, 788).

The manifestation of the desire to receive the baptism is absolutely necessary, since it is not only a juridical act but also an important decision by which a non-Christian becomes a member of the Church. This desire has to be given in writing, attested by two witnesses. The convert must also be alerted about the civil law liabilities such as loss of right to property inheritance, jobs, or other benefits.<sup>21</sup>

The converts should not be influenced in anyway. The Latin Code demands the missionaries to instruct the non-Christians by the testimony of their words and of their lives, by having “a sincere dialogue with them, so that, taking their native character and culture into account, ways may be opened up by which they can be led to know the good news of the Gospel” (c. 787/1); the missionaries have to administer the baptism only if the converts “freely request it” (c. 787/2). The baptism is not to be administered immediately and it has to precede a sufficient period of preparation (*CIC*, c. 788/1; *CCEO*, c. 587/1).

## **2. *Baptism of Children of School-Going Age and of Infants***

For canon law, the children between the age of 14 to 18 are considered as children having use of reason and they can be baptized without the consent of their parents or guardians, if they express their desire to be baptized. However, in this case the regulations of the 'Rite of Christian Initiation of Adults' have to be followed and especially the law of the each and every country has to be respected.

For the baptism of the infants, the consent of the parents or the guardians is absolutely necessary. However, the Codes allow that in danger of death of an infant, baptism can be administered without the consent of the parents or guardians (*CIC*, c. 868/2; *CCEO*, c. 681/4). This provision seems to be contradictory to the teaching of Vatican II according to which no one is to be forced to embrace the catholic faith (*DH*, n° 10). The fathers of the Commission have analyzed in detail for a long time to include this provision in the Code.<sup>22</sup> According to the canonists, this provision is only an exhortation and it has no binding force as the other canons.<sup>23</sup>

### **B. The Vigilance and the Control in the Ecclesial Responsibilities and the Missionary Activities**

The present Codes control also the missionary activities of the associations of the faithful; that is to say, they demand the authorities of the Church to supervise and coordinate all the missionary activities. This is primarily to protect the freedom of conscience of the non-Christians.

The Codes foresee the control and the supervision of the mission of the individuals as well as the various associations. These Codes explain clearly to whom the works of the apostolate are to be confided. They insist on the responsibility of the competent authority to promote the initiative of the faithful in the various forms of apostolate (*CIC*, c. 394, 528/1; *CCEO*, c. 203, 289/1-2). Similarly, before confiding an ecclesiastical responsibility, the competent authority should verify whether the person has the talents, the necessary qualities and the interest to fulfill that apostolate. This verification is necessary: "In

order to be promoted to an ecclesiastical office, one must be in communion with the Church, and be suitable, that is, possessed of those qualities which are required for that office by universal or particular law or by the law of the foundation" (*CIC*, c. 149/1; *CCEO*, c. 940, 946). With regard to the private associations of the faithful, the competent ecclesiastical authority should supervise them to ensure that they are for the common good and they do not function against the doctrine of the Catholic Church (*CIC*, c. 323). If their activities are against the catholic doctrine of the religious freedom, then the ecclesiastical authority can intervene to control their activities. The rules and regulation for the formation of the associations private or public show how much the Catholic Church is very careful that their missionary activities do not go against the religious freedom of non-Christians.

The Codes also mention how the competent ecclesiastical authority can exercise his power to control the missionary activities of the individual person or of the associations, which are against the catholic doctrine of the religious freedom:

- The faculty to preach can be restricted or removed (*CIC*, c. 764, *CCEO*, c. 610/2);
- An ecclesiastical office can be removed (*CIC*, c. 184/1; *CCEO*, c. 965), when one has publicly defected from the catholic faith or from the communion with the Church (*CIC*, c. 194/1, 2°; *CCEO*, c. 965);
- The diocesan bishop must defend the integrity and unity of the faith to be believed (*CIC*, c. 386/2; *CCEO*, c. 196);
- The pastors of the Church have the duty and the right to ensure that in writings or in the use of the means of social communication there should be no ill effect on the faith and morals of Christ's faithful (*CIC*, c. 823; *CCEO*, c. 625/2); especially, the local Ordinary must approve the publication of catechisms and other writings pertaining to catechetical

formation, as well as their translations (*CIC*, c. 827; *CCEO*, c. 658-659);

- The penal sanctions for the offences or the scandals against the faith and the Church (*CIC*, c. 1364; *CCEO*, c. 1436/1, 1437);
- The suppression of the private associations by the competent authority, if its activity gives rise to grave harm to ecclesiastical teaching or discipline, or is a scandal to the faithful (*CIC*, c. 326/1, 320/2; *CCEO*, c. 583).

All these precautionary measures show that the Catholic Church discourages always the forcible conversion and she respects the freedom of conscience of the non-Christians. However, it is to be acknowledged that the Codes of canon law do not foresee directly any penal sanction for the infraction of the principle of non-coercion in the matters of religious conversion.

We can conclude that the Catholic Church claims its right to propagate its religion in all countries and her propagation of the Gospel is only a good and acceptable proselytism. She always condemns the unacceptable proselytism and the forcible conversion, which results by this sort of proselytism. The brief analyze of the Codes of canon law with regard to the religious freedom and especially the religious conversion thus helps us to understand the position of the Catholic Church and answers to the misunderstanding of those who criticize her missionary activities.

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## Endnotes

<sup>1</sup> World Council of Churches, « Christian Witness, Proselytism and Religious Liberty », in *Minutes and Reports of the Ninth Meeting of the Central Committee*, Galyatetö, 1956, Genève, 1956, p. 79-84; *Id.*, « Revised Report of the Commission on 'Christian Witness, Proselytism and Religious Liberty' », in *The Ecumenical Review*, XIII, 1960, n° 1, p. 79-89; R. Beaupère, « Le comité central du conseil œcuménique des Églises à Saint Andrews (16-24 août 1960) », in *Istina*, 1960, n° 4, p. 468.

<sup>2</sup> Déclaration à la 69<sup>e</sup> congrégation générale, 18 nov. 1963; « Les travaux du concile : le schéma sur l'œcuménisme », in *DC*, 61, n° 1415, 5 janvier 1964, col. 35.

<sup>3</sup> Cf. « *De libertate religiosa* », *caput I*, in *Acta et documenta concilio oecumenico Vaticano II apparando, series II, volumen II, Acta pontificiae commissionis centralis praeparatoriae concilii oecumenici vaticani II, pars IV, sessio septima : 12-19 junii 1962*, Typis polyglottis vaticanis, MCMLXVIII, p. 677.

<sup>4</sup> Voir Commission théologique mixte, Église catholique romaine/Conseil œcuménique des Églises, document d'étude sur « Témoinage commun et prosélytisme de mauvais aloi », mai 1970, in *DC*, LXVII, n° 1575, p. 1077-1081.

<sup>5</sup> Voir Groupe mixte de travail, Église catholique romaine/Conseil œcuménique des Églises, « Le témoignage commun des chrétiens », 1980, texte anglais in *Information Service*, 1980, n° 44, III-IV, trad.fr. Par *DC*, LXXVIII, n° 1807, 3 mai 1981, p. 450-458.

<sup>6</sup> Mr. Minos Kokkinakis, a businessman of Greek nationality, was born in 1919 in Sitia (Crete) in a family of Greek Orthodox. In 1936, he became an active member of Jehovah witness and he was arrested and imprisoned more than sixty times for his proselytizing activities. In 1986, in Sitia, both he and his wife went to the residence of Mrs. Kyriakaki, a member of the Greek Orthodox Church and explained to her the doctrines of the Jehovah Witness and incited her to buy some booklets. The husband of Mrs. Kyriakaki was a cantor in the Greek Orthodox Church and he vehemently opposed their proselytizing activities. Upon his complaint to the police, Mr and Mrs Kokkinakis were arrested. A few weeks later, they were condemned for the offence of proselytism by the correctional court of Lassithi. However, the Court of Appeal of Crete released Mrs. Kokkinakis, but it confirmed the judgment on her husband. In 1988, the European Court of human rights rejected the appeal of Mr. Kokkinakis.

<sup>7</sup> Article 9 of the European Convention: "1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others."

<sup>8</sup> *AIR*, 1973, Orissa, p. 116-123.

<sup>9</sup> *AIR*, 1975, Madhya Pradesh, p. 163-174; *AIR*, 1977, SC, p. 908-912.

<sup>10</sup> When the term 'mission' was introduced in the official documents of the Catholic Church, the missionary activities of the Catholic Church for the non-Christians were under the control of the Congregation for the propaganda fide, founded in 1622. See "Mission", in *Dictionnaire de droit canonique*, vol. VI, Paris, 1957, p. 902.

<sup>11</sup> For the text of Gregory the Great, see *Epistolae Gregorii Magni, livre 13, ep. 13*, in *CCSL*, t. CXLa, pp. 1013-1014; Also in *PL*, t. LXXVII, n° 12, col. 1267-1268.

<sup>12</sup> See the text of the fourth council of Toledo in José Vives, Thomas Martinez et Gonsalo Martinez Diez (eds), *Concilios visigoticos e hispano-romanos*, Barcelone-Madrid, Consejo superior de investigaciones científicas, Instituto Enrique Florez, 1963, pp. 186-225.

<sup>13</sup> Cf. c. 23, q. 1; q. 4, d.a.c. 17; q. 6, chap. 4.

<sup>14</sup> Cf. X 3, 42, chap. 3.

<sup>15</sup> For this discussion, see Rik Torfs, « Liberté de conscience et catholicisme », in *Revue de droit canonique*, t. 52/1, Strasbourg, 2002, pp. 65-80.

<sup>16</sup> For the discussions on this canon in relation with the history of the principle of non-coercion, see Roland Jacques, *Des nations à évangéliser: Genèse de la mission catholique pour l'Extrême-Orient*, Paris, Cerf, 2000, 720p.

<sup>17</sup> See the declaration on religious freedom, *Dignitatis humanae*.

<sup>18</sup> *Communicationes*, 7, 1975, pp. 149-150.

<sup>19</sup> Pontificia Commissio Codici iuris canonici recognoscendo, *Schema Codicis iuris canonici*, Romae, Libreria editrice vaticana, 1980, p. 139.

<sup>20</sup> Jean Passicos, « Trois canons à portée 'constitutionnelle' (can. 748, can. 127, can. 1446) », in *L'Année canonique*, 41, 1999, p. 194.

<sup>21</sup> Sebastian S. Karambai, *Ministers and Ministries in the Local Church: A Comprehensive Guide to Ecclesiastical Norms*, Mumbai, St. Paul's Publications, 2005, pp. 222-223.

<sup>22</sup> *Communicationes*, 13, 1981, p. 224; Pontificia Commissio Codici iuris canonici recognoscendo, *Schema Codicis iuris canonici*, c. 822 § 2, Romae, Libreria editrice vaticana, 1980, p. 195; Pontificia Commissio Codici iuris canonici recognoscendo, *Relatio: Complectens synthesim animadversionem ab em. mis atque exc. mis patribus commissionis ad novissimum schema codicis iuris canonici exhibiturum*, Cum responsionibus secretaria et consultoribus datis, Romae, Typis polyglottis vaticanis, 1981, p. 201.

<sup>23</sup> Philippe Greiner, *L'encadrement juridique du prosélytisme en droits grec, français, européen (1950) et en droit canonique catholique romain*, (thèse du doctorat), Paris, L'Institut catholique de Paris et l'Université de Paris Sud, 2005, pp. 446-447.