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### HUMAN LIBERTIES IN THE PRE-REVOLUTIONARY GREEK COMMUNITY SYSTEM

The Enlightenment, in the advanced form in which it appeared in the eighteenth century in the West and particularly in France, as a natural extension of the humanist movement, as this in turn developed in the context of the Renaissance, the aim of which was to liberate people from all bonds, was the result of a lengthy cultural process which began in pre-classical Greece<sup>1</sup>.

One might say that a precursory form of enlightenment had been the replacement of the bond of common blood (in the form of phratries and phyles) by the bonds of common space (demes) and common interests (orgeones and thiasi). These reforms had been peacefully accomplished after discussions between the opposing sides. With Solon's arbitration as elected archon and conciliator, the discussions led to the abolition of Draco's arbitrary military-camp-like polity, which was pregnant with sociopolitical turmoil and civil rebellion, and the constitution of a model polity of conciliation based on consensus processes<sup>2</sup>.

1. See J. Godechot, *Les Institutions de la France sous la Révolution et l'Empire*, new edition (Paris, 1968); J. Jaurès, *Histoire socialiste de la Révolution française*, new edition by A. Soboul, Éditions sociales (Paris, 1968-73); J. Michelet, *Histoire de la Révolution française*, annotated by G. Walter, N.R.F. (Paris, 1962); W. Hubatsch, *Aufklärung zur Bestimmung von Ausdruck und Inhalt europäischen Staatsformen im 17. und 18. Jahrhundert* (Darmstadt, 1973); M. Horkheimer and T. W. Adorno, *Dialektische Aufklärung* (Frankfurt am Main, 1973); R. Mousnier and E. Labrousse, *Le XVIII<sup>e</sup> siècle, l'époque des Lumières (1715-1815)*, P.V.F. (Paris, 1985); P. R. Palmer, *The Age of the Democratic Revolution (1760-1800)*, 2 vols (London, 1959-1964); A. Soboul, *L'Europe et la Révolution française*, 8 vols (Paris, 1885-1904); K. Dimaras, *Νεοελληνικός Διαφωτισμός*, second edition, Ermis (Athens, 1985); P. Kondilis, *Die Aufklärung im Rahmen des neuzeitlichen Rationalismus*, Klett-Gotta Verlag, 1987: Greek translation, *Ο Ευρωπαϊκός Διαφωτισμός*, 2 vols, Themelio (Athens, 1987), with an extensive bibliography (vol. 2, pp. 365-403). I am deeply indebted to Mr Evangelos Prontzas for the above bibliographical information; my thanks to him for his friendly advice.

2. Arist., *Ath. Pol.* V-X II; Plut., *Sol.* II', K'; D. 47, 22, 4. See N. Pantazopoulos, «Ελληνικά «κοινωνία», Προλεγόμενα εις το Αττικόν Σωματειακόν Δίκαιον» (1946);

Viewed in the context of their time, these reforms (which took place in the sixth century BC), were unquestionably the first ever legislative declaration of fundamental values (which at subsequent stages of their evolution became known as “human liberties”), for they acknowledged the individual’s right to belong to the group of his choice. They thus abolished arbitrary membership of a group based on the bond of common blood as the exclusive precondition for granting “civil” rights to a particular category of citizen (the eupatrids). Having a monopoly on the means of dominance, being the only ones allowed to carry weapons, they exercised privileged authority and jurisdiction over the other citizens, who, now that they were able to join forces and actively fight for their own interests, acquired individuality and became sociopolitical entities in the new polity of conciliation.

The spirit of conciliation and co-existence was a basic factor in the subsequent sociopolitical evolution of the community-based polities of conciliation of Athens and the other democratic régimes. Their characteristic feature was the gradual extension of civil rights to broader categories of individuals and groups and the latter’s more active participation in the city’s public life.

Thus began the slow evolution of a whole string of liberties, which made up a precursory form of modern human rights<sup>3</sup>. Based on a complex system of privileges, they were not at first guaranteed constitutionally, but depended on each individual case<sup>4</sup>.

The original rules which served to harmonise the sociopolitical conflicts at first applied to a limited number of privileged individuals, such that one might say that the law did not always depend on its form (which was usually provided by legislation) but rather on the extent of its validity and the manner of its implementation, which latter depended on the type of régime involved.

Enlightenment, in the broadest sense of the word, functions as an innate cultural reformatory factor when, in critical periods of transition, juridical

«Ιστορική Εισαγωγή εις τας πηγάς του Ελληνικού Δικαίου» (1953); «Οργεῶνες, Παρατηρήσεις εις τα νεώτερα επιγραφικά ευρήματα και τας πηγάς καθόλου του Αττικού Σωματειακού Δικαίου» (1948): all republished in *Επιστ. Επετ. Σχ. Ν.Ο.Ε.: Αντιχάρισμα στον Ν. Πανταζόπουλο*, vol. XIX, part 1 (Thessaloniki, 1974), 233-80, 75-88, 311-38.

3. For a better understanding of the text on the basis of contemporary specialised distinctions between the concepts “individual liberties” and “individual rights”, as particular categories of human rights, see D. Farely’s articles in the *UNESCO Dictionary of Social Sciences*, vol. 1 (1972), pp. 78-80.

4. See my study, «Τα «προνόμια» ως πολιτιστικός παράγων εις τας σχέσεις Χριστιανών-Μουσουλμάνων: Συμβολή εις το εθνικόν κοινοδίκαιον της Εγγύς Ανατολής και της Νοτιοανατολικής Ευρώπης» (1975), republished in *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, vol. XIX, part III (Thessaloniki, 1986), 25-90.

inertia or advanced forms of social co-existence provoke or contribute to the expansion of basic individual or collective liberties. Irrespective of their temporal coherence, these periods receive ideological feedback from each other because they express human beings' inborn propensity constantly to improve their conditions of life. This is achieved either smoothly through enlightenment or stormily through revolution.

A complex form of enlightenment, the fruit of an on-going process, manifested itself in Athens in the fifth and fourth centuries BC as a reaction to the new form of oppression the city/group was exerting upon the citizen/unit<sup>5</sup>, when the Sophists introduced the Protagorian theories of subjectivity<sup>6</sup> and relativity<sup>7</sup> into philosophy, and thereby shifted the established centre of gravity of social co-existence from the group to the unit. Thus, the unit, rather than the group, thereafter became the criterion for all values, and the concept of "human being" now came to include the slave too, because, according to Alcidamas, "God left all free, nature created no-one a slave"<sup>8</sup>. The dry, introverted concept of the citizen as a bearer of rights now turned outwards and ventured the first step towards cosmopolitanism.

Despite its humanistic content, the Sophist theory<sup>9</sup> contained certain contradictions. One of these was Callicles's opinion that the "κρείττων",

5. According to Hippias, «Ο νόμος τύραννος ὦν τῶν ἀνθρώπων πολλὰ παρὰ φύσιν βιάζεται» (Plat., *Prot.*, 337d), and according to Antiphon, «Πολλὰ τῶν κατὰ νόμον δικάϊων πολεμῶς τῇ φύσει κείται», Diels, *Fragm.* 44A, Col. 2 (34-66), 3-30).

6. Plat., *Theait.*, 152a; Diog. *Laert.*, IX, 51.

7. Plat., *Theait.*, 158a, 180; *Crat.*, 358; Diog. *Laert.*, IX, 51.

8. Arist., *Rhet.*, 1373, *Schol.*

9. W. Zilles, "Hippias aus Elis", *Hermes*, 53 (1918), 45-56; D. Loenen, *Protagoras and the Greek Community* (Amsterdam, 1940); H. Strasburger, "Der Einzelne und die Gemeinschaft", in *Zur griechischen Staatskunde*, published by F. Gechitzar (Darmstadt, 1969); A. W. H. Adkins, *From the Many to the One* (London and Ithaca, New York, 1970); M. Emsbach, *Sophistik als Aufklärung: Untersuchungen zu Wissenschaftsbegriff und Geschichtsauffassung bei Protagoras*, Neumann (Königshausen, 1980); B. Snell, *Die Entdeckung des Geistes: Die Entstehung des europäischen Denkens bei den Griechen*, fourth edition, (Göttingen, 1975): Greek translation by D. Iakov, *Η ανακάλυψη του πνεύματος: Ελληνικές ρίζες της ευρωπαϊκής σκέψης*, M.I.E.T. (Athens, 1981)); F. Tonbruch, «Die Sophistik als Aufklärung», in «*Αρχαία Σοφιστική*»: Πρακτικά του Α' Διεθνούς Συνεδρίου Φιλοσοφίας (Athens, 1984), pp. 24-30; G. Alatzoglou-Themeli, «Οι αντικειμενικοί λόγοι του Πρωταγόρα: Ένα αδιέξοδο και η λύση του», in «*Αρχαία Σοφιστική*», *op. cit.*, pp. 64-79; V. Kyriakos, *Αρχαίος Ελληνικός διαφωτισμός και Σοφιστική* (Ioannina, 1986); N. Pantazopoulos, «Ο Αριστοτέλης και οι Σοφιστές: Ο πολιτικοκοινωνικός στοχασμός στην κλασική Ελλάδα», second edition (1980), republished in *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, vol. XIX, part 1 (1986), 365-404.

the physically or socially stronger, had the right to rule over and to enjoy greater wealth than the weaker<sup>10</sup>. After heated dialectical confrontations, this view was first reformed by Antiphon, who taught that the individual's social behaviour should be dictated by the precept "Do no wrong, that thou be not wronged"<sup>11</sup>; and subsequently blended with Lycophron's proposition that there was no advantage to be gained from replacing the law of the city<sup>12</sup>, which expressed the political will of the group, with the intransigent Sophists' law of nature.

It had to continue to prevail, because it was a conciliatory contract which served the interests of both the group and the unit. It thus averted a civil uprising, which would have been to the disadvantage of the whole, since it would have opened up the way for brief violent periods of dominance by either the "law of the city" or the "law of nature" faction. This was the Social Contract theory, which, after falling into abeyance for two thousand years, eventually brought Rousseau into the vanguard of the Enlightenment.

The Sophist theory focuses on the subjective criterion. The western Enlightenment, having been enriched by the teachings of Christianity and the contributions of Bacon, Locke, Hume, and the French Encyclopaedists, introduced into it the objective criterion, based on the following line of reasoning<sup>13</sup>.

There is nothing in the intellect that has not previously been perceived by the senses. It is admissible, however, that it subsequently be verified by experiment. The validity of any idea depends on observation and experiment, free of all sensual (that is, subjective) influence. The objective theory thus becomes an essential complement to subjective experience.

The Sophists opened up the way for the subsequent evaluation of moral, social, and political problems as these evolved and developed in the context

10. Plat., *Logy.*, 483e: «τον κρείττω του ήττονος άρχειν και πλέον έχειν». Thrasymachus makes the same point: «δίκαιον είναι ουχ άλλο τι ή το του κρείττονος συμφέρον»: Plat., *Resp.*, 338e. See A. Menzel, *Eine Studie zur Geschichte der Lehre von Rechte des Stärkeren* (Vienna and Leipzig, 1922).

11. F. Pfister, "Zu den neuen Bruchstücken des Sophisten Antiphon (Ox. Pap. 1364 und 1797)", in *Philol. Wochenschrift*, 45 (1925), 201-5; V. Kyrkos, «Δύο ανθρωπολογικές θέσεις στο Σοφιστή Αντιφώντα», *Μνήμων*, 3 (1973), 63-90.

12. Arist., *Polit.*, 1280, 10: «Και ο νόμος συνθήκη και καθάπερ έφη Λυκόφρων ο σοφιστής, εγγυητής αλλήλοις των δικαίων»; see C. Kahn, «The Origin of Social Contract Theory in the Fifth Century BC: The Sophists and their Legacy», *Hermes*, 44 (1981), 92-105.

13. See Reichenbach, *The Rise of Scientific Philosophy* (Los Angeles, California, 1951); P. Sorokin, *Fads and Foibles in Modern Sociology* (Chicago, 1956).

of humanism. The metaphysical theorems and aphorisms of the Middle Ages and early Renaissance gave way to reality and its burning issues (religion, politics, commerce, and industry) as these were manifested in everyday life.

The first centuries of Christianity were characterised by a profound sense of humanism ("love thy neighbour"), which, however, modified by a concern for practicality and politics, was largely located in the metaphysical and religious sphere. The classic humanist tradition was broken in that, according to the Justinian Code<sup>14</sup>, the values which expressed it (*humanitas*, *clementia*, *caritas*, *benignitas*) belonged to the sphere of the Emperor's exclusive jurisdiction, which was exercised in practice as the merciful concession of arbitrary authority rather than as an obligation.

The Church too, during its long centuries of acculturation, ever since the time of the Three Hierarchs, when it was at the height of its influence, had practised philanthropy in the form of benevolence, as dictated by Christian solidarity and love—that is, as a moral duty towards the weak and the suffering, who had the ability to be grateful, but not the right to demand to exercise their liberties.

One has only to reflect upon the fact that the institution of slavery, against which the Hellenic spirit declared itself as early as the fourth century BC<sup>15</sup>, continued to scourge the Christian community until the nineteenth century. Consequently, any movement for its abolition was by its very nature a humanistic one.

The profusion of heresies, which were by no means alien to national separatist movements<sup>16</sup>, forced the centralised authoritarian State to harden its attitude towards collective demands for liberties, thus restricting even further any scope for the manifestation of individual liberties. All the same, both the classical and the Christian world-view was characterised by the passion to preserve, expand, or recover freedom. It was the constant link in their long endeavour throughout history<sup>17</sup>.

14. C. I, 1-38; 5, 1-22, 7, 1-6; 8, 1-18 (Jews); 10, 1-2; 11, 1-10; *Nov. Just.* ρθ' (= *Basilica* 1, 1-52). C. Armenopoulos, «Περί ατρέσεων», in G. Rallis and P. Potlis, *Σύνταγμα Θείων και Ιερών Κανόνων*, 5 (Athens, 1985), 446-52.

15. See A. Bayonas, «Η αρχαία σοφιστική και ο θεσμός της δουλείας», *Αθηνά*, 68 (1965), 115-68.

16. D. Obolensky, *The Bogomils: A Study in Balkan Neo-manichaeism* (Cambridge, 1948); I. Anastasiou, *Οι Παυλικιανοί: Η ιστορία και η διδασκαλία των από της εμφάνισης μέχρι των νεωτέρων χρόνων* (Athens, 1959).

17. See E. Ivanka, *Hellenisches und Christisches im frühbyzantinischen Geistesleben* (Vienna, 1948); W. Ohnsorge, *Abendland und Byzanz* (Darmstadt, 1958); R. Jenkins, "The

In the classical and modern democratic régimes enlightenment functioned dialectically, as a creative element intended to harmonise the conflict between the State's power centres and the citizen-subjects as sources of energy. Since these régimes recognised the right to free association, various individual groups effected a pluralistic manifestation of their tendencies towards renewal; and in concert with the State, of which they were an organic part, achieved the smooth evolution of sociopolitical affairs.

The authoritarian régimes did not look kindly on reform movements, which, when they did break out, had something of the nature of lucid intervals. They were undertaken on state initiative and were intended to reinforce the authority of the central power at home (as, for instance, in the case of the Isaurians and the Palaeologan Renaissance), or abroad (the enlightenment of the Slavs); or else they manifested themselves as private initiatives intended to reorganise the state machinery in order to deal more effectively with external threats (as in the case of Gemistus Plethon).

Despite the significant contribution of science in tracing humanism's diachronic development, there are still gaps in the Byzantine period which pose problems for research<sup>18</sup>. Gaps will inevitably exist as long as we seek proof of our civilisation's unbroken continuity in scholarly sources, because under the influence of fluctuating cultural circumstances, these often suppress or give a one-sided account of the facts.

Another factor which disorients research is the suppression of the sources themselves<sup>19</sup>. This is a widespread phenomenon owing to the irregu-

Hellenistic Origins of Byzantine Literature". *Dumbarton Oaks Papers*, 17 (Washington, 1963), 38f.; B. Hemmerdinger, "La Culture grecque classique du VII au IX siècle", *Byzantion*, 34 (1964), 125-33; K. Oehler, *Antike Philosophie und byzantinisches Mittelalter* (Munich, 1969); W. Jaeger, *Early Christianity and Greek Paideia* (Cambridge, Mass., 1965); F. Dvornik, *Early Christian and Byzantine Political Philosophy*, 2 vols (Washington, 1966); D. Zakythinos, "La Grande Brèche dans la tradition historique de l'Hellénisme du septième au neuvième siècle", *Χαριστήριον εις Αναστάσιον Ορλάνδον*, III (Athens, 1966), 300-24; P. Lemerle, *Le Premier Humanisme byzantin: Notes et remarques sur l'enseignement et la culture à Byzance des origines au Xe siècle*, PUF (Paris, 1971) (Greek translation by M. Nystazopoulou-Pelekidou published by the Educational Institution of the National Bank of Greece, Athens, 1981).

18. See G. Ostrogorsky, "The Byzantine Background of the Moravic Mission", *Dumbarton Oaks Papers*, 19 (1965), 1-18, and the collective work edited by I. Anastasiou, *Κυρίλλω και Μεθοδίου: Εόρτιος Τόμος επί τη χιλιοστή και εκατοστή ετηρίδι*, 2 vols (Thessaloniki, 1966-8).

19. See my article, «Μηχανισμοί συγκαλύψεως των πηγών Δικαίου», to be published in *Τιμητικός Τόμος Γεωργίου Δασκαλάκη*.

lar evolution of civilisation, following the Roman and other foreign conquests, and makes it difficult to pinpoint and assess popular institutions and values, which would facilitate the detection of evidence of the diachronic survival of the humanistic spirit in an integrated form.

Furthermore, scientific research attaches primary importance to education as a factor in the temporal development of the Renaissance, as the bridge between the spiritual heritage of classical antiquity and our own time. Education, however, particularly in the dark periods of history (such as the first centuries of Byzantium), was cultivated in and directed at a limited circle of people. Only rarely did it extend to the masses, who tended to follow their own cultural patterns. This may be one reason for the ambiguity between the terms "renaissance" and "enlightenment" which are very frequently confused.

Attempts to evaluate the aims of the Enlightenment have ignored the institutions of popular law, although, despite having been passed over by the power centres, they continued to be the vehicles of the popular humanist tradition. It is extremely difficult for research to detect them, however, as I have said, owing to the suppression of sources, which was the means used arbitrarily to impose the legal system which expressed the official—"purist"—state policy.

It is for the reasons outlined above that the community system is of such great importance, as the cradle in which humanism, nourished by popular sources, fashioned a collective way of life. As it put into practice the general concepts of isonomy, autonomy, solidarity, the common interest, and arbitration, this way of life developed specific patterns of behaviour, such as the political virtue of antiquity, the Christian virtue of the Middle Ages, and the communal virtue or martial virtue and mettle of more recent times.

Humanism went hand-in-hand with and was strengthened, up to a point, by the Enlightenment<sup>20</sup>. It did not depend exclusively on the Enlightenment, however, being self-sufficient and closely bound up with the very existence of humankind, which was instinctively and spontaneously seeking humanism's basic goal, liberation from all forms of bondage. The Enlightenment was a scholarly phenomenon of limited range and usually heteronomous origin, in contrast to the autonomous nature of humanism.

20. See B. Bischoff, "Das griechische Element in der abendländischen Bildung des Mittelalters", *Byz. Zeitschrift*, XLIV (1951), 27-55; P. Gay, *The Enlightenment: An Interpretation*, 2 vols (London, 1967-70); F. Dölger, *Classical Influence in European Culture A.D. 500-1500* (Cambridge, 1971).

The longing for a better quality of life revived in the late Byzantine period, in the thirteenth and fourteenth centuries<sup>21</sup>. Together with the theoretical dialectical juxtaposition of the stagnating religious, political, and social problems, which, on the basis of classical or Christian models, were trying to escape from the stifling embrace of the external factor, the Zealot uprising of 1342-9 manifested a bold effort to renew the languishing centralised system through an autonomously developed regional administrative system. According to one view, this latter was influenced by western models<sup>22</sup>.

In the following century, the humanist philosopher of Mistras, Gemistus Plethon, envisaged dealing with the impending catastrophe by a "great and significant change". Through petitions and writings, he enjoined Mistras's overlords and the Emperor himself<sup>23</sup> to carry out radical sociopolitical reforms<sup>24</sup> based on the principle of the equality and solidarity of the sources of energy that would be created. The *diakonikon phylon* would co-operate with the *autourgikon phylon*<sup>25</sup>, from whose ranks would come the soldiers,

21. See E. Barker, *Social and Political Thought in Byzantium: From Justinian I to the last Palaeologus* (Oxford, 1961); D. J. Geanakoplos, *Byzantine East and Latin West: Two Worlds of Christendom in the Middle Ages and Renaissance* (Oxford, 1966) (Greek translation by K. Kyriazis, Athens, 1966); S. Xydis, "Medieval Origins of Modern Greek Nationalism", *Balkan Studies*, 9 (1968), 1-20; C. Haskins, *Renaissance of the Twelfth Century* (New York, 1968); A. Vacalopoulos, "Byzantinism and Hellenism: Remarks on the Racial Origin and the Intellectual Continuity of the Greek Nation", *Balkan Studies*, 9 (1968), 101-21; D. Zakythinos, «Αναγέννησις και Αναγεννήσεις: Ελληνικά ανακεφαλαιώσεις», *Μεταβυζαντινά και Νεοελληνικά* (Athens, 1978), pp. 130-228; idem, «Το πρόβλημα της Ελληνικής συμβολής εις την Αναγέννησιν», *op. cit.*, pp. 229-43; H. Hunger, "Theodorus Metochites als Vorläufer des Humanismus in Byzanz", *Byzantinische Zeitschrift*, 45 (1952); S. Runciman, "Byzantine and Hellene in the Fourteenth Century", *Τόμος Κ. Αρμενοπούλου: Επιστ. Επετ. Σχ. Ν.Ο.Ε.* (Thessaloniki, 1951), 27-38; H. Beck, *Theodorus Metochites: Die Krise des byzantinischen Weltbildes im 14. Jahrhundert* (Munich, 1952); C. J. Giannakopoulos, *Βυζάντιο και Δύση: Η αλληλεπίδραση των αμφιθαλών πολιτισμών στον Μεσαίωνα και στην Ιταλική αναγέννηση (330-1600)*, translated by Emmy Varouxaki (Athens, 1985).

22. See I. Ševčenko, "The Zealot Revolution and the Supposed Genoese Colony in Thessalonika", *Ελληνικά*, 4 (1953), *Προσφορά εις Στίλπωνα Κυριακίδη*, 617, n. 70.

23. Advising the Despot Theodore about the Peloponnese, see J. Migne, *Patrologiae Graecae*, 1866, p. 160, (photocopy reprint, 1977, pp. 841f.). Memorandum to King Emmanuel about affairs in the Peloponnese, *op. cit.*, pp. 821-40.

24. «*Νόμων Συγγραφή*»: Plethon, *traité des lois ou Recueil des fragments en parties inédites*, by C. Alexandre, translated by A. Pellissier (Amsterdam, 1966), pp. 16, 28-32, 126f. For a development of the subject, see my book, *Ρωμαϊκόν Δίκαιον*, III (1979), pp. 171-91, and G. Kavvadias, *Γεωργίον Πλήθωνος Γεμιστού, Η Σοσιαλιστική Πολιτεία: Κοινωνία και κοινωνική σκέψη στο Βυζάντιο* (Athens, 1987).

25. Λειτουργικών φύλλον: producers involved in primary production; διακονικών φύλ-



the instruments, that is, of the agents of the centre of power. This system presupposed shared use of the land by the owners and the free farmers and interchange of activities and duties between the *diakonikon phylon* and the *autourgikon phylon*, under the watchful eye of the ruling class, the aristocracy<sup>26</sup>.

This revolutionary form of policy, which was inspired by Platonic models, presupposed a consciousness of national identity (“Ἕλληνες εσμέν”). Despite its Utopian nature, it gives valuable evidence of the appreciation of the idea of the unbroken coherence of the Hellenic cultural tradition.

During the period of Turkish domination which followed, the fact that the communities were a subsidiary power centre and at the same time a source of energy made it possible for a new reform movement to develop, amongst the lower orders this time. Their aims were fully supported by the subsidiary power centre, which operated in the context of the popular institution of local autonomous self-administration, under the supreme primary power of the Ottomans.

In the course of time, the humanist movement in the broadest sense of the term went from strength to strength, under the fruitful influences of Greek Christianity and the West European spirit. In the late eighteenth and early nineteenth century, these influences took on a pan-European character, which was crystallised by the Belgian, Italian, Serbian, and above all the French and Greek Revolutions<sup>27</sup>. These revolutions were all separate manifestations of the widespread spirit of liberation, which was inspired by the principle of nationalities.

The agents of the popular cultural tradition began hesitantly to approach the new trends from the West in the middle of the eighteenth century within the autonomous framework of the Community system. Dynamic Community representatives, such as merchants and sailors, had already begun to turn in this direction in an effort to modernise the institutional inertia resulting from the rapid change in socioeconomic circumstances.

In this case an intermediary role was played by translations of the works of European enlighteners. The Church reacted strongly against them, thus

λον: service personnel involved in the manufacture, transportation, and distribution of the product. See S. P. Spentzas, *Plethon - G. Gemistos: Economy and Fiscal Views* (in the press).

26. The *diakonikon phylon* may be subdivided into the creative, the commercial, and the vulgar element and includes the craftsmen and producers, the merchants, and the manual workers. For further details, see my book, *Ρωμαϊκόν Δίκαιον*, III (1979), pp. 174-95.

27. Concerning the Balkans in particular, see D. Djordjević, *Révolutions nationales des peuples balkaniques* (Belgrade, 1965).

putting obstacles in the way of the process of enlightenment, the purpose of which was to bring Greece into the Western—chiefly French—juridical system.

In the late eighteenth and early nineteenth century, French liberal ideas began to exert a stronger influence on Greek affairs. This took the form of attempts to translate French works into Greek, as also the composition of original works by Greek patriots inspired by the French Enlightenment<sup>28</sup>.

Before publishing the *Hungro-Wallachian Code* in 1818, which was clearly influenced by the *Code civile*, Nikolaos Karatzas had translated Voltaire's *Essai sur les mœurs*. Rigas Velesinlis translated Montesquieu's *L'Esprit des lois* and was influenced both by this and by the classical and community models, which inspired him in his formulation of the *New Civil Administration*, the first Modern Greek constitution since the Conquest<sup>29</sup>.

28. The first translation of the French Constitution was done by Rigas Velesinlis in his "New Civil Administration", which will be discussed below. My essay on Maurer in *Επιστ. Επετ. Σχ.Ν.Ο.Ε.*, XIX, IV (1986), 424-7, contains a list of translations of French legal writings, to which should be added: *Ο Εμπορικός Κώδιξ της Γαλλίας μεταφρασθείς εκ του Γαλλικού πρωτοτύπου και πολλοίς σημειώμασι πλουτισθείς, έτι και παραρτήματι των αναγκαίων άρθρων εκ του Πολιτικού Κώδικος επανξηθείς παρά Νικολάου του Παπαδοπούλου, παρ' ου προσενεχθείς τω εν Κωνσταντινουπόλει εντιμοτάτω Συντήματι των Ελληνορρωμαίων Εμπόρων προς κοινήν ωφέλειαν* (Vienna, 1814); *Θαλάσσιος Νομοθεσία, Συναθροισμένη από διαφόρους Νομοθέτας θαλασσίους Ευρωπαϊκούς και πλουτισμένη από διαφόρους φυλαττομένας συνηθείας διά οδηγίαν κάθε είδους ναυτικού και εμπορικού*, by Captain Nikolaos Kefalas of the Island of Zakynthos (Vienna, 1817); *Ιωάννου Ιακώβου Ρουσώ του εκ Γενεύης, Λόγος περί αρχής και βάσεως της ανισότητος των ανθρώπων προς αλλήλους: Μεταφρασθείς εκ της Γαλλικής γλώσσης υπό Δημητρίου Αριστομένους [Σπυρίδωνος Βαλέτα] (Paris, 1818); Γαλλικός Εμπορικός Κώδιξ μεταφρασθείς εις την καθομιλουμένην ημών διάλεκτον παρά Θ[εοδώρου] Ρ[άκου] (Paris, 1820); Η Συνταγματική Χάρτα, Μεταφρασθείσα υπό Φήλικος Δεαίχου (Paris, 1821) (this is the French Constitution of 1814); Δοκίμιον περί προσωπικών ασφαλειών τας οποίας απαιτεί η σημερινή κατάσταση της πολιτικής κοινωνίας γραμμένη εις την Γαλλικήν γλώσσαν από τον Π.Κ.Φ. Δωνόν ... και μεταφρασμένη εις την Γραικικήν από τον Φ[ίλιππο] Φ[ουρναράκη] (Paris, 1825); Περί της Κοινωνικής Συνθήκης ή Αρχαί του Πολιτικού Δικαιώματος: Σύγγραμμα του Φιλοσόφου Ιωάννου Ιακώβου Ρουσώ. Εκ της Γαλλικής γλώσσης κατά πρώτον μεταφρασθέν υπό ... Γρηγορίου Γεωργιάδου Ζαλύνου και εκδοθέν μετά προλεγομένων υπό Κωνσταντίνου Νικολοπούλου (Paris, 1858); Περί Πολιτειών, Περί των εις σύνταξιν και συντήρησιν αυτών και περί Πολιτικής Κυβερνήσεως. Σύνοψις συνταχθείσα υπό Ι. Π. Κοκκώνη, Πελοποννησίον, επ' αγαθώ της Ελλάδος, 2 vols (Paris, 1828-9); Σχέδιον των παρατηρήσεων, προσθηκών και διορθώσεων διά να γίνη ο Γαλλικός Πολιτικός Κώδιξ εφαρμοστέος εις την Ελλάδα, υπό Α[λεξίνου] Π[άλμα], 3 vols (Athens, 1837-8).*

29. See my study, «Ελληνικαί Καταβολαί και ξενικαί επιδράσεις εις το έργον του Ρήγα Βελεστινλή» (1974), *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, III (1986), 727-67; I. Pesmatzoglou, «Εθνικός και δημοκρατικός ανενδοτισμός», *Ευθύνη*, 204 (December 1988), 656-8.

In the same year as Rigas was martyred (1798), Korais published in Paris his *Fraternal Teaching*, launching a stinging broadside against the recently published *Paternal Teaching's* message of subservience. In an endeavour to "enlighten" the French about his compatriots' cultural situation, he read his pamphlet *Memoir on the Present State of Civilisation in Greece* to a learned society in Paris in 1803<sup>30</sup>. It was the first Greek response to the enlightenment movement to be exported from France to Greece. Korais continued his efforts to rouse the Greeks to revolution with a number of anonymous militant pamphlets, in which he used dialogue, the Sophists' dialectical tool of persuasion, to enlighten his compatriots in their struggle for freedom<sup>31</sup>. Disillusioned, perhaps, by the excesses of the French Revolution<sup>32</sup>, he chose to translate Cesare Beccaria's *Dei delitti e delle pene*, thus tempering his dedication to classical models with the enlightenment movement as it developed in Italy too, under Alfieri's influence. Korais devoted his long and productive life to a prolific literary output, endeavouring to breathe life into his enslaved fellow-Greeks' national consciousness and to make them self-reliant "perpetrators of freedom".

Following in the steps of Rigas's *Battle-song*, Korais composed and published in 1800 his *War-song of the Greeks Fighting for Freedom in Egypt*. In it he proclaims his conviction that:

*The Greeks and they alone  
May fight their foes  
And vanquish them.  
But what can they not do  
When with the French  
They unite in a single body?  
French and Greeks united,  
In friendship closely bound  
No longer are they Greeks and French,  
But one Graeco-Gallic nation.*

30. *Mémoire sur l'état actuel de la civilisation dans la Grèce lu à la Société des Observateurs de l'homme de 16 Nivôse, an XI [6 Janvier 1803], par Coray.*

31. See D. Ginis, *Ta anónyma tou Korai* (Athens, 1948); K. Dimaras, *Αδαμαντίου Κοραή: Τρεις Διάλογοι* (Athens, 1960). Korais's patriotic pamphlets, which are now hard to come by, have recently been published by the Centre for Modern Greek Studies of the National Research Institute under the title: *Πολιτικά Φυλλάδια (1798-1831) του Αδ. Κοραή*, with an introduction by Loukia Droulia (Athens, 1983).

32. See Roxanni Argyropoulou, «Η σκέψη των ιδεολόγων στο έργο του Αδαμάντιου Κοραή», *Πρακτικά του Συνεδρίου Αδ. Κοραή και Χίος*, vol. II (Athens, 1985), pp. 31-45.

The militant *Hellenic Nomarchy: Discourse on Freedom* by "The Anonymous Greek" created a great stir on its appearance in 1806, and reveals the direct influence not only of Rigas but also of Montesquieu and Rousseau<sup>33</sup>.

One work which was closer to the local popular community tradition was Daniil Filippidis and Grigorios Konstantas's *Modern Geography of Demetriis*, which was written in Demotic Greek and printed in Vienna in 1791. Grigorios Konstantas probably wrote most of the chapter on Thessaly and Magnesia: the frequent references to concord, education, the common interest, polity, democracy, and freedom, which have a clearly educational purpose, indicate that the communally advanced region of Thessaly and Magnesia was considered suitable for the experimental implementation of the principles of the Enlightenment with no small hope of success<sup>34</sup>.

After the failure of Alexei Orlov's attempt to stir up revolution, the enslaved Greeks' anguished question, "What can [we] do now amidst the encircling mist?" was answered by Grigorios Konstantas with a restrained optimism based on his appreciation of the actual situation:

*That Hellenic spirit which inspired our forefathers  
A longlasting yoke encompassing and deadening all  
Could not quench. It awaits but the breath of a favourable wind  
To shine out again in the theatre of the world*<sup>35</sup>.

"That Hellenic spirit" was nothing less than the native popular culture surviving in the Communities of Turkish-held Pelion, where, as Konstantas observed, "every village is a diminutive city, a democracy". The vehicles of this spirit—and this is particularly important—were progressive and liberal clerics, such as Grigorios Konstantas, Daniil Filippidis, and Anthimos Gazis, who, influenced by the spirit of the Enlightenment, became supporters of the popular community tradition and struggled to disseminate it without coming into direct conflict with the conservative views of the Church<sup>36</sup>.

In assessing the role of the Enlightenment in the Greeks' demand for

33. The Anonymous Greek, *Ελληνική Νομαρχία, ήτοι Λόγος περί ελευθερίας*, edited by G. Valetas, N. Bees, and M. Sigouros, third edition, Vivliodetiki (Athens, 1957), pp. 358f.

34. See my study, «Κοινοτικός βίος εις την Θεσσαλομαγνησία επί Τουρκοκρατίας» (1967), *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, II- (1986), 351-443.

35. *Νεωτερική Γεωγραφία* (Venice, 1791), p. 14.

36. Cf. Korais's thoughts on the collective struggle in his pamphlet, *Τι πρέπει να κάμωσιν οι Γραικοί εις τας παρούσας περιστάσεις* (1805).

and acquisition of civil liberty and particularly in the development of the Modern Greek individual and group image, much greater importance was attached to those aspects of enlightenment which came from the West, than to equivalent phenomena which evolved independently in enslaved Greece and served the same purposes by different means. Thus, it was not fully appreciated that when the Enlightenment, as an "intellectual" factor, entered Greece via translations, processes were already under way amongst the people which assisted its gradual absorption. These processes varied, naturally, from place to place and time to time, according to circumstances. Owing to the long years of slavery, they functioned peripherally, sometimes in the wrong way, independently, and autonomously, in the context of the enslaved Greeks' introverted life. Collectively organised in Communities, the Greeks were consciously preparing themselves to pursue the same aims as the Western Enlightenment: the liberation of humankind from all forms of bondage.

After the Byzantine state machinery had been dismantled, four main groups or categories developed: religious, political, economic, and military. On the basis of this fact, thirty years ago I included the naturally fluid concept of the Community in the political category<sup>37</sup>. A closer investigation of the sources, however, showed me that I had been looking at the Community phenomenon from a very narrow viewpoint, and that if I wanted to evaluate it in its true dimensions I should have to look at it in the context of a broader grouping, which would also include the other categories mentioned above<sup>38</sup>.

Having investigated these pluralistic forms of grouping diachronically and on various levels, I became convinced that I was looking at different stages in the development of a single central idea: the idea of the Community. As it developed—irrespective of its original form—this idea accompanied or became confused or identified with the other forms, founded as it was upon

37. «Ελλήνων Συσσωματώσεις» (1958), *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, III (1986), 93-119; "Öffentlich-Rechtliche Institutionen der Griechen während der türkischen Herrschaft" (1960), *op. cit.*, 123-36.

38. Cf. "Community Laws and Customs of Western Macedonia under Ottoman Rule" (1961), *op. cit.*, 463-85; "Church and Law in the Balkan Peninsula during the Ottoman Rule" (1967), *op. cit.*, 239-348; «Κοινοτικός βίος εις την Θεσσαλομαγνησίαν επί Τουρκοκρατίας» (1967), *op. cit.*, 351-445; «Ο Ελληνικός Κοινοτισμός και η Νεοελληνική Κοινοτική Παράδοση» (1985), *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, -V (1986), 579-614; «Οι κοινοτικές ρίζες του Μικρασιατικού Ελληνισμού» (1986), *op. cit.*, 617-65; "Law and Space in the Collective Consciousness of Greeks: The Popular Community Law and K. D. Karavidas", *Balkan Studies*, 26,2 (Thessaloniki, 1985), 271-97; *Η διαχρονική πορεία του Ελληνικού Κοινοτισμού* (at press).

the same unchanging values: the general principles of Greek law<sup>39</sup>. Indeed, the identification is sometimes so close that one cannot distinguish between the various categories.

Despite the pressure applied by the conquerors, amidst sometimes intense intra- and intercommunal confrontations, in the middle of the eighteenth century the original agrarian and stockbreeding community rapidly gave way to the commercial and small industrial community. Public and common law were adapted to the new circumstances with the help of institutions and values which either developed from popular law, as this evolved in the course of its association with Ottoman law and local self-administration, or were deliberately introduced on the basis of French models<sup>40</sup>.

The *Code de Commerce* of 1807 exerted a smooth and gradual influence, being a means of peaceful communication with the Mediterranean peoples and of filling the gaps created in the commercial sphere by the rapid development of the economic communities (guilds and associations). Being economically autonomous, these leagues proceeded to codify hitherto unknown practices, such as bills of exchange, bills payable to order, and sequestration. These practices had in fact been accepted by common law (and this is important) before the *Code de Commerce* was published, functioning on the basis of good faith, equity, and arbitration—unchanging inherent values and principles of Greek common law.

At first, the tendency to adopt French models was of a supplementary nature, but it rapidly developed into a thoroughgoing influence, which adversely affected both the official law (of the Byzantine emperors) and the popular law (of the Greek nation or the Greek people). It is in this form that we find it in the Ionian Islands, Crete, and Samos; areas in which, unlike Central Greece, where the German law of the Pandect was arbitrarily imposed, French law was enforced until the introduction of the Greek Civil Code in 1946.

At the beginning of the nineteenth century, the commercial factor was organised in "systems" and "associations" and fully conscious of its leading position within the social whole of which it was a functioning part. Through

39. The general principles of law which arise from the collective consciousness are invariable. In normal circumstances, they fill the deliberate gaps in the legislation and in unstable times they cover the legal inertia and dysfunctions arising from interruptions in its smooth operation. See my book, *Ρωμαϊκόν Δίκαιον*, Γ' (1979), pp. 404f.

40. See my study, *Από της «λογίας» παραδόσεως εις τον Αστικόν Κώδικα*, second edition (Thessaloniki, 1965), pp. 132, 139f, 236, 186, and *passim*.

free trade it sought incorporation in the western, and particularly French, juridical system, and through economic self-sufficiency and autonomy its direct goal was to achieve political freedom (cf. the *Filiki Etaireia*) by dynamic means<sup>41</sup>.

The development of craft trades, commerce, and navigation, slowly at first and then with ever increasing speed, brought to the fore individuals who broke free from their exclusive dependence on the land to organise themselves in economic corporations. They then penetrated the subsidiary power centres in order to demand their community, economic, and civil rights. Owing to their financial dependence on the conqueror, the political communities were such centres. In this way they ensured their own active participation in the process of administration, distribution, payment, and control of taxes.

In some cases, these active elements were content merely to be incorporated within the subsidiary power centres and to occupy leading positions in accordance with their financial contribution (such as the delegates and treasurers). Alternatively, around the middle of the eighteenth century, they achieved independence from the religious and political groupings to which they officially belonged, thus forming new sources of energy which could be exploited by the conqueror in exchange for additional facilities.

These modifications of the communal cell are usually hard to discern. At some stage traditional popular values and experiences, which are expressed by customs and mœurs, cease to operate efficiently because of changing external and internal circumstances. As a result of oppressive taxation, which becomes more than the taxpayer can endure, development is halted, the work-force gradually shrinks, and stagnation sets in, all of which effects are provoked by external factors. The same phenomenon may be observed when the internal equilibrium of the various sources of energy is upset. It is this inertia which either causes the experiment to fail (as in the case of the village of Ambelakia), or leads to the review and re-adjustment of the faulty situation on the initiative of the group's more dynamic elements, who usually use democratic methods to implement their programme of reform (as in the cases of Serres, Meleniko, and Hydra).

41. See my paper, "Greek Contributions to Maritime Laws and Commercial Customs in the Eastern Mediterranean during the Eighteenth and the Nineteenth Centuries", off-print from *War and Society in East Central Europe*, vol. XIII, *Southeast European Maritime Commerce and Naval Policies*, Columbia University Press and Institute for Balkan Studies (Thessaloniki, 1988), pp. 311-20. See also my study, «Μορφές συντεχνιακής οργάνωσης των Ελλήνων εμπόρων και ναυτικών στην ύστερη Τουρκοκρατία», to be published in *Τιμητικός Τόμος Νικολάου Δελούκα*.

Readjustment is achieved by "recodifying" the old provisions and adopting new ones. In practice, this is effected through the gradual expansion of the jurisdiction of the subsidiary power centre from a limited professional sphere (such as the merchant navy) to a wider, political one<sup>42</sup>. In this case, the legislators disguise their efforts as the continuation of the legislative work of their "fathers and forefathers", which was interrupted or pushed into desuetude by anomalies or changes in the political situation.

All members of the Community were anxious to become economically self-sufficient, in order to be able then to achieve economic independence, as a precondition for the collective pursuit of their individual interests insofar as these were connected or identified with those of the group. This constant struggle, both within and outside the Community, prepared the *rayahs* psychologically to claim human liberties on a broader scale. Even before the French Revolution, the Communities were cultivating and promoting democratic ideals and nurturing revolutionary movements.

Each active member was entitled to vote in the election of the Community leaders, to belong to the subsidiary power centres (political communities, guilds, and associations), and to take part in the People's Assembly, which met annually and at various irregular intervals to check the elected leaders' handling of the Community's financial affairs.

The conqueror's primary power centre recognised the Community as a legal entity in public law. In certain circumstances, as a subsidiary power centre, it was represented by elected leaders (*kodjabashis*, elders, and master craftsmen), and was represented at the conqueror's primary power centre in Constantinople by a special agent, either a *vekil* or a *kapikehaya*, who co-ordinated the Community's obligations and claimed its rights in public law.

As a natural reaction to the heterogeneous régime of highhandedness and tyranny, in the autonomous framework of the Communities there developed a system of government which was inspired by a lofty democratic conviction and served as the enslaved Greeks' instrument for laying dynamic claim to their civil rights.

All the same, what facilitated the French Enlightenment's effortless influence on the development of the modern Greek political situation was the democratic conviction which inspired both movements. However, we must not forget that the democratic representative system had, in the centuries-old Community practice, a long tradition behind it, which far predated

42. See the preamble to the Law of Hydra (1818) in A. Lignos, *Αρχαίον Κοινότητος Ὑδρας*, 6, pp. 39.



the French Revolution. There were, for instance, the statutes which “all, great and small, priests and people, on the island of Mykonos” instituted in the first half of the seventeenth century. These statutes (of 8 October 1615 and 28 October 1649) inform us in the quaint local idiom that “it is a custom of our island from ancient times that we elect elders, and when they do not please us, we depose them and elect others”.

The representative Community system (comprising the right to vote, to belong to subsidiary power centres, and to check the handling of the Community’s financial affairs) had come under the jurisdiction of the “common *rayah*”—the General Assembly of the Community’s equal members—long ago (“from ancient times”). Indeed, in the statute of 1615 it is emphatically stressed that this system operated in accordance with earlier consensus processes “according to the terms and agreements we had made”<sup>43</sup>. As we shall shortly see, it was in force in Serres too in the same period, which leads one to conclude that social liberties existed in some areas from the middle of the sixteenth century.

The system of joint taxation meant that each active member of the Community functioned as an organic part of it. Every member had a direct part in the legislative, executive, and judicial powers, and zealously observed the institution of personal accountability, which ensured smooth relations between the individual and the group in both an inward and an outward direction<sup>44</sup>.

At the same time, the *rayahs* were being exhaustively exploited as a source of mass productivity and energy, in accordance with the preferential traditional common law of the Mediterranean. This allowed a singular system of co-operation to develop, based on the mutual interest which governed the relations between the conqueror, as a centre of power, and the taxpayers, as a source of energy. The system encouraged the expansion of the preferential jurisdiction, which, fueled by diplomacy and bribery, reinforced the autonomous functions of the institutions of local self-administration.

If the conquerors’ fiscal system was to be productive, it was essential that they strike a safe balance between arbitrary taxation and the maximum level the taxpayers could tolerate. Consequently, as official Ottoman sources reveal, if this level were surpassed, a whole diplomatic system had been de-

43. See P. Zerlentiς, *Σύστασις του κοινού των Μυκονίων* (Ermoupolis, 1924), pp. 18-19.

44. See my study, «Η προς ευρωπαϊκά πρότυπα ολοκληρωτική στροφή της νεοελληνικής νομοθεσίας, Georg Ludwig v. Maurer» (1969), *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, IV (1986), 283-433.

veloped to enable the tributaries' displeasure to be defused by reducing the demands made on them or curbing the pressures applied by various officials. In this respect, it is interesting to note that a special sultanic decree (*adâlet-nâme*) granted the tributaries the right to protest against high-handedness on the part of state officials<sup>45</sup>.

However, although the right to protest was explicitly recognised, in practice it was difficult to exercise. As already mentioned, it was actually a diplomatic means of covering up high-handedness, given that it pronounced sanctions against future violations while yet granting no right to compensation for damages already incurred as a result of arbitrary actions. In thus covering up high-handedness, in a way it legalised it in retrospect.

All the same, despite its factitious nature, the right to protect was exercised in practice through the active intervention of the military corporations of the *armatoli* (gendarmes) and the *klephts* (armed brigands, who took to the hills rather than submit to Turkish domination). These took dynamic action to provide a counterbalance to the fear aroused by Turkish high-handedness and were a lodestone for the underprivileged and the disgruntled.

Under these circumstances, one might regard the right to protest as an inhibiting factor when high-handed behaviour on the part of one of the conquerors' subsidiary power centres impeded or blocked the enslaved Greeks' productive capacity.

The customary right of protest, as a psychological means of relieving the sense of injustice, had its origins in Byzantine public protest (εκβόηση)<sup>46</sup>. During the period of Turkish domination, on account of the mutual interests which governed the relations between the conquerors and their vassals<sup>47</sup>, it passed through various stages of development, until, via various local uprisings, it culminated in the events of the 1821 War of Independence.

Other indirect means of protest consisted in applying pressure, which could go so far as threatening to scatter the members of the Community as a source of energy, or demands by the taxpayers to inspect the administration of the state functionaries.

45. See H. Inalcik, "Adaletnâmeler", *Türk Tarih Bergeleri Dergisi*, 2 (1965), 49f. (Greek translation by V. Dimitriadis and E. Sehabeddin, «Κανόνες απονομής δικαιοσύνης», *Δελτ. Τουρκ. Βιβλιογρ.*, 7 (Thessaloniki, 1969), 21f. See also my study, «Τα Προνόμια, ως πολιτιστικός παράγων εις τας σχέσεις Χριστιανών-Μουσουλμάνων: Συμβολή εις το εθνικόν κοινοδικαίον της Εγγύς Ανατολής και της Νοτιοανατολικής Ευρώπης» (1975), *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, III (1986), 68-71, for examples of practical applications.

46. Γεωργ. Νομ., XXXII and LXXXI: P. Zepos, *Jus Graecoromanum*, vol. 2 (1931), pp. 67, 71.

47. See my study, «Τα Προνόμια», *op. cit.*, 72-4.

The wide range of the Community members' rights and obligations to regulate the Community's internal and external policy comprised the "Community virtue"<sup>48</sup>, a cultural value which sprang from the general principles of solidarity and mutual interest, and was the linchpin of any group or individual social policy of a humanistic nature. A broad network of popular institutions developed for the effective protection of the socially weak. This was achieved through the building of churches, schools, and charitable institutions, ransoming prisoners, providing dowries for orphaned girls, and giving grants (the money coming from alms-boxes and legacies (*λάσσα*)).

Under these circumstances, in my opinion it is wrong to attribute the achievements of humanism exclusively to enlightenment from abroad.

I mention these instances in order to underline the fact that some human rights which survived or developed in the context of the privileges (the right to life, to property, to freedom of religion, and particularly the right to protest) were recognised, albeit only occasionally, after the *rayahs* had made active demands for them. This proves that the enslaved subjects had previously undergone a long and fruitful psychological preparation in order to realise the existence of these rights and the possibility of making dynamic demands for them.

Moving now into the sphere of the Church's exclusive jurisdiction in matters relating to religion which were regulated by the privileges, the violation of the law of *aman*<sup>49</sup>, after the prompt payment of the Christians' taxes, conflicted with Moslem holy law and provoked the reaction of the Ecumenical Patriarchate as one of the tributaries' subsidiary power centres.

Despite the tissue of high-handedness which regulated the tributaries' obligations, the possibility of exercising the right to protest presupposed acceptance of the basic human rights in the form in which they were recognised by the system of privileges. Since we are tracing the recognition of human rights by searching for their origins and usually have no difficulty in attributing their spread to the influence of external factors, I do not think we can ignore the evidence of the sources, which reveal the processes which developed within the Community system, the cradle of the representative democratic system of government.

The eighteenth century saw the completion of the processes which had led to the Communities' modification from simple productive units into active

48. See my study, «Η προς Ευρωπαϊκά πρότυπα ολοκληρωτική στροφή», *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, IV (1986), 370-1.

49. «Τα Προνόμια», *op. cit.*, 36-7, 78-9.

administrative organisations. The coincidence of these two capacities, uncoordinated and unconnected to begin with, enabled the enslaved Greeks to combine and identify their passive aspect, as taxation units and sources of energy, with their active role in local self-administration and as a subsidiary power centre. Within the framework of the independent Communities in the broadest sense of the term, it also provided scope for dynamic action<sup>50</sup>.

During the period of Turkish domination, the centres of enlightenment were the Ecumenical Patriarchate at first, and the various Communities thereafter, from the middle of the eighteenth century onwards.

a. Although for the first two centuries after the conquest the Ecumenical Patriarchate's activity was restricted to maintaining the post-conquest *status quo*, it was no less "enlightening" for all that<sup>51</sup>. In fact, the preservation of the enslaved Christians' religious and racial identity was a fundamental precondition for the gradual development of the idea of the *γένος*, or "nation" into the form it acquired around the middle of the eighteenth century: that is, the collective national consciousness of the *rayahs*.

I do not think, therefore, that we have any right to deny Enlightenment when it aspired to conscious actions aimed at preserving religion. For religion, in accordance with the privileges, is a prerequisite for the, conditional, recognition of an albeit questionable state of personal freedom.

The distributive tax system, according to which taxes to the suzerain were owed jointly<sup>52</sup>, was one of the principal factors which, for the reasons already outlined, allowed each Community to become a subsidiary power centre. The distribution and collection of the tax by Community members, who were authorised to do so by the primary power centre, was a source of keen intercommunal strife, which provoked the intervention of the conquerors' minions in the Community's internal affairs in such a way as to affect its autonomy.

The problem of the equitable distribution of the subjects' tax obligations in accordance with the general requirements of solidarity and the common interest was dealt with effectively by the economically advanced units of the

50. *Op. cit.*, 64-7.

51. See P. Ziogas, «Μια κίνηση πνευματικής αναγεννήσεως του υποδούλου Ελληνισμού κατά τον 16ο αιώνα (1540-1550)», *Ελληνικά*, 27 (1974), 50-78, 268-303; S. Runciman, *The Great Church in Captivity* (Cambridge University Press, 1968); M. Gedeon, «Η πνευματική κίνησις κατά τον ΙΗ' και ΙΘ' αιώνα» (edited by Alkis Angelou and Philippos Iliou), *Νεοελληνικά μελετήματα*, 1 (Athens, 1976); my study, «Εκκλησία και Δίκαιον», *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, III (1986), 232.

52. See my studies, «Κοινοτικός βίος» and «Προνόμια», *op. cit.*, passim.

sources of energy. An example of this was the "Community contract" concluded in Serres in 1614. With the unanimous agreement of the people and the guild leaders, a collective twelve-member body was set up and invested with all the authority of the subsidiary power centre for one year<sup>53</sup>. This arrangement helped to take the edge off the social conflicts (such as that which broke out in Smyrna around 1785) and was achieved with the participation, as we should say nowadays, of all the productive classes, under the chairmanship of the Metropolitan.

This experiment in co-operation between the various sources of energy was tried in other areas too. It was successful in Pelion, where production and consumption were distributed amongst the villages; it failed in Ambelakia, owing to disagreement between the factors of production; it became a fruitful reality on Hydra with the cooperation of the partner-captains (*παρτζινέβελ-λοι*) and the associate-sailors between 1795 and 1818; and it developed into a perfect model of co-operation between guilds and associations in Meleniko in 1813.

The mechanisms for juridical control which were implemented in these cases were so advanced and covered the methods and intended aims so perfectly that even today they are not easily comprehended by outsiders.

At this period, in the late eighteenth and early nineteenth century, Enlightenment and the Community system were one and the same thing. This was dictated by the force of circumstances, for it was the only way the enslaved subjects could deliver themselves from the conquerors' tyranny, by making empirical use of the one element that was missing from classical enlightenment: experiment. Although there was no direct temporal continuity, from as early as the Renaissance and Thomas Diplovatatzis's time<sup>54</sup> the En-

53. According to the Chronicle of Papasynodinos, p. 49: "*On the tenth day of November in the year 1614, all the people and the leaders of the most holy Metropolis of Serres assembled before the Most Reverend Metropolitan, our Lord and Bishop Damaskinos, and the most righteous clergy and devout priests and benefactory lords, and the great Synod and all the council, both great and small, elected twelve just, good, god-fearing, and virtuous men, and they took one man, the most just, good, and virtuous, from each guild, and set them with God and with their souls to be prominent and to maintain the common expenses of the citadel and the town of Serres, that they might, on pain of irreversible excommunication, distribute the charges amongst the Christians each according to his powers; and they were charged, with pallium and with stole, to be shy of neither rich nor poor, but only what God signalled to their hearts that they should cast upon each Christian; and they elected the best among the twelve*". See P. N. Papageorgiou, «Αι Σέρραι και τα προάστεια τα περί τας Σέρρας και η μονή Ιωάννου του Προδρόμου», *Byzantinische Zeitschrift*, III, 2, 280.

54. See D. Mavrogiannis, *Recherches documentaires sur la vie et l'oeuvre d'histoire lit-*

lightenment was gradually moving onto a parallel course in which experiment—the implementation to a greater or lesser degree of the principles of humanism by various agents—played a decisive part from the time of Hobbes and Locke onwards. For how else could one describe the constant struggle which was waged on all fronds of the Community system, if not as an experiment in self-knowledge? During the last centuries of slavery, it passed through three main stages, as attested by the source evidence of the Greek Demotic songs.

In the first stage it was expressed through the individual anguish of the slave, who, in Rigas's words, "shudders and deeply sighs":

*Mother, I tell you, I cannot labour for the Turks.*

In the second stage, it developed into organised collective resistance:

*On every mountain peak a pennon,*

*On every branch a klepht<sup>55</sup>.*

In the third stage, it was consummated in the demand for shared power as a form of military para-state or, as we have seen, as a subsidiary power centre covering the sources of energy:

*Make haste the gendarmerie,*

*For we are coming like wolves<sup>56</sup>.*

b. In the Communities, the Enlightenment proceeded from the base upwards. As the preconditions for their development into independent subsidiary power centres gradually came into being, its influence spread, either independently or through translations. At first, however, the translations had limited scope, for few people had a knowledge of letters or languages to avail themselves of their message.

In contrast to Greece, where, as we have seen, the Enlightenment was fostered for the most part by the Community system, in the semi-independent Danube principalities it was nurtured by the feudal system which was in force there and precluded collective organisation.

In the middle of the eighteenth century, the task there was undertaken in the capacity of a subsidiary power centre by a special category of enslaved

*ténaire de la jurisprudence du jurisconsulte grec Thomas Diplovatatzis (1468-1541)* (Paris, 1965).

55. Another version runs: "at every spring a pennon, branches with *klephts* everywhere"; see C. Fauriel, *Δημοτικά Τραγούδια της συγχρόνου Ελλάδος*, with an introduction by N. Bees, translated by A. Chatziemmanouil (Athens, 1956), p. 96.

56. See D. Petropoulos, *Ελληνικά Δημοτικά Τραγούδια*, vol. I (Athens, 1958). pp. 228, 15.

subjects, the Phanariots, who made the most of the opportunities offered by international circumstances. Influenced by the West (France and Austria), the semi-independent rulers of Wallachia and Moldavia put innovatory concepts into practice, which have rightly been described as "enlightened despotism". This phrase is even more apt if one considers the situation in the rest of the Ottoman Empire, from which these rulers received their jurisdiction. Thanks to their knowledge of languages and their education, they became sensitive recipients of the European, and particularly the French, Enlightenment, and went on to disseminate it in their turn<sup>57</sup>.

The humanistic achievements of the Phanariot rulers saw the light of day in the period between 1740 and 1820 through progressive statutes and laws. Legislative and linguistic reforms went hand-in-hand. Constantine Mavrokordatos, who ruled repeatedly over Hungro-Wallachia and Moldavia, replaced the Slavonic language with Romanian, protected education with a number of radical statutes, known as the "Great Charter" (1749), and liberated the serfs (*vecini*) from the sovereign power of the *boyars* (which was a consequence of their being tied to the land and dependent on the joint taxation system) by granting them the right to choose where they would live and to seek work where they wished, irrespective of the desires of their feudal lord. This legislation led to the abolition of bondage in 1746 and secured and safeguarded the peasants' personal liberty<sup>58</sup>.

In 1780, Alexander Ypsilandis, ruler of Hungro-Wallachia, issued his "Legal Constitution" in Greek, and included common-law customs in his programme of reforms in order to improve conditions for the agrarian population<sup>59</sup>.

57. See R. Florescu, "The Phanariot Régime in the Danubian Principalities", *Balkan Studies*, 9 (1968), 301-18; A. Duju, "La Culture roumaine à l'époque des Phanariotes: Héritage et nouvelles acquisitions", *Symposium l'Epoque phanariote, Thessaloniki, 21-25 Octobre, 1970: A la mémoire de Cléobule Tsourkas*, Institute for Balkan Studies (Thessaloniki, 1974), pp. 77-83; Gr. Cassimatis, "Esquisse d'une sociologie du Phanariotisme", *op. cit.*, pp. 159-68; V. Georgescu, "Réalités roumaines et initiatives juridiques phanariotes: A propos de l'échec de l'œuvre codificatrice de Michael Fotino (Photeinopoulos)", *op. cit.*, pp. 301-14; N. Jorga, *To Βυζάντιο μετά το Βυζάντιο*, with a foreword by N. Svoronos, translated by G. Karas (Gutenberg, Athens, 1985), pp. 213f.

58. See S. Papacostea, "La Grande Charte de Constantin Mavrokordato (1741) et les réformes en Valachie et Moldavie", *L'Époque phanariote*, pp. 365-76; F. Constantiniu, "Constantin Mavrokordato et l'abolition du servage en Valachie et en Moldavie", *op. cit.*, pp. 377-84.

59. See C. Giurescu, "Un remarquable prince phanariote: Alexandre Ypsilantis, voévode de Valachie et Moldavie", *op. cit.*, pp. 61-9.

At the beginning of the nineteenth century, the confused legal situation hitherto prevailing in Europe started to become clearer. The *Code Civil* was brought out in 1804 and the Austrian Code in 1811, both of which decisively influenced the legislative policies of the rulers of Wallachia and Moldavia, who modelled their own legislative reforms on them<sup>60</sup>. In 1816-18, Skarlatos Kallimachis's Moldavian Code introduced thinly disguised institutions of Austrian law on a virtually equal footing with the popular sources. The ruler of Hungro-Wallachia, Ioannis Karatzas, charged the poet Athanasios Christopoulos with the drafting of a Code, but the liberal provisions included in its initial version did not meet with the approval of the *boyars*, who rejected it. Christopoulos was forced to start again and this time produced, in Demotic, a popularised form of French models, the "Legislation of the Supreme and Most Pious Lord and Ruler of All Hungro-Wallachia ... Voevode Ioannis Karatzas, son of Georgios".

French influence extended to Bessarabia too, which was under Russian influence. The temporary governor of Bessarabia, Ioannis Kapodistrias, charged Petros Manegas, a jurist from Arta, with the drafting, in French, of a Civil Code (1821-5), which comprised 1517 articles. It was not implemented, however.

Despite the network of high-handedness which governed the subjects' obligations, the right to protest presupposed the existence and recognition of basic human rights in the form in which they were recognised by the privileges. Since we are tracing the recognition of human rights by seeking their origins and attributing their dissemination to the influence of the French Enlightenment, I do not think we can afford to ignore the evidence of the sources, which reveal the processes that evolved in the context of the Community system, that cradle of the democratic representative system of government.

It was in the person of Rigas Velestinlis that the two parallel cultural trends of the Enlightenment were blended: the French, which was manifested in the French Revolution, and the Greek, which was cultivated independently and gestated within the Community system, preparing the way for the Greek War of Independence of 1821<sup>61</sup>.

Looking back over all that has been said above, we can see that Rigas:

- i. Realised the possibility of regaining freedom through revolutionary

60. For a brief review of the legislative activity of the rulers of the Danube principalities, see my book, *Ρωμαϊκόν Δίκαιον*, vol. III (1979), pp. 304-42.

61. See my study, «Ελληνικά καταβολαί και ξενικά επιδράσεις εις το έργον του Ρήγα Βελεστινλή», *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, III (1986), 724-66.



action—the possibility, that is, of independently demanding human rights;

ii. Legislated for the latent right to protest;

iii. Conceived the fundamental idea of cultural unity, which was lying dormant beneath the pluralistic manifestations of change set out above;

iv. Diagnosed that matters were undergoing a process which required a broader theoretical substructure, and formulated his proposition about the form and the nature of the State that would come about after tyranny had been overthrown<sup>62</sup>.

In his Constitution of 1797<sup>63</sup>, Rigas managed to harmonise the conflicting political ideologies which had gradually developed in the course of Turkish domination<sup>64</sup>: that of the state of the Race, as expressed by the collective agent of the Ecumenical Patriarchate—a state which was monocratic, multinational, and conservative; and that of the state of the Nation, as expressed by the pluralistic agent of the Communities—a state which was polycratic, uni-national, and democratic. Using the experience he had acquired in communally advanced Pelion and the “cosmopolitan” environment of the Danube principalities, Rigas proposed a new form of federal state, which would be monocratic, supranational, and democratic. In this way he resolved the confusion and uncertainty arising from the absence of a unified political theory which could activate and co-ordinate the galloping process of modernisation.

At the same time, with his *Battle-Song*, he reinforced the feeling of security and self-confidence, made a stand against subservience, and highlighted the notion of *levendia*, or line and dashing manliness (a cultural value shared by the members of the military corporations) as a means by which independently to claim freedom.

Though he was influenced by the messages of the French Revolution,

62. See I. Kordatos, *Ο Ρήγας Φεραίος και η Βαλκανική Ομοσπονδία* (Athens, 1945); A. Manesis, “L’Activité et les projets politiques d’un patriote grec dans les Balkans vers la fin du XVIII siècle”, *Balkan Studies*, 3 (1962), 78-115.

63. For the whole text, see I. Kyriakopoulos, *Τα Συντάγματα της Ελλάδος* (Athens, 1960), pp. 5-27.

64. See my study, «Ρήγας Βελεστινλής: Η πολιτική ιδεολογία του Ελληνισμού προ-άγγελος της Επανάστασης» (1964), *Επιστ. Επετ. Σχ. Ν.Ο.Ε.*, XIX, III (1986), 675-724. For contemporary ramifications, see A. Cobban, *National Self Determination* (London University Press, 1944); A. Manesis, *Η φιλελεύθερη δημοκρατική ιδεολογία της Εθνικής Επανάστασης του 1821* (Athens, 1987); H. Scholler, “Die Interaktion zwischen den Menschenrechten der europäischen Konvention und dem nationalen Verfassungsrecht”, *Σύμμεικτα προς τιμήν Φαίδωνος Θ. Βεγλερή*, vol. II (1968), pp. 491-504; S. Perrakis, «Η προστασία των δικαιωμάτων του ανθρώπου στα σχέδια της ευρωπαϊκής ενώσεως», *op. cit.*, pp. 585-99.

Rigas continued to promote the idea of the state as it developed within the reality of the Greek Community system. And while the French Revolution consolidated individual rights, Rigas envisaged the recognition of collective human rights irrespective of race, colour, and creed.

The rights of which Rigas dreamt in 1797, under a régime of harsh servitude, were adopted in 1948 by the Universal Declaration of Human Rights, which, in articles 20, 22, and 27, grants human rights to Societies and Communities<sup>65</sup>. This event was a practical extension of the ideals of the Greek Enlightenment, which, although it was attempted in practice in various forms, never managed to acquire a universal aspect such as that conceived by Rigas.

The preceding analysis reveals that the Enlightenment was a cultural phenomenon which was already developing peripherally in the enslaved Greek regions before the outbreak of the French Revolution, and was being cultivated autonomously and independently within the Community system. The enslaved Greeks had acquired an awareness of cultural rights in the context of the prevailing circumstances at the beginning of the seventeenth century, a century and a half before the French Revolution.

So, without wishing to call in question the French Enlightenment's fertile influence on the development of the Modern Greek cultural situation, it is my belief that this influence would not have borne fruit if the seeds of the French Enlightenment had not fallen upon the soil of the Greek Community system, fertilised by "sweat and blood", and there taken root.

65. See G. Daskalakis, *Η Οικουμενική Διακήρυξις των Ανθρωπίνων Δικαιωμάτων* (Athens, 1953), pp. 88f.; idem, «Η κοινότητα στοιχείο πολιτιστικής ενότητας στο χώρο της Μεσογείου», offprint from *Ευθύνες* (April, 1986), 151-6; idem, *Μαθήματα Συνταγματικού Δικαίου: Α' Γενικό Μέρος* (Athens, 1971), pp. 104f.; idem, *Η αναθεώρηση του Συντάγματος και το νόημα του συντακτικού έργου* (Athens, 1941).

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