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Civil Liberties and Rights, Equality and the Quality of Democracy in Greece

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Despite the fact that evaluating the utility, feasibility, and value of democracy are as old as the concept itself, systematic efforts to come up with conceptual frameworks and methods to assess the quality of democracy are of relatively recent vintage. In this regard, Larry Diamond and Leonardo Morlino's work is one of the most comprehensive, clear, well grounded, and operationally friendly. In their original piece on the subject featured in the *Journal of Democracy* (2004), Diamond and Morlino leave little doubt that only a liberal can be a good quality democracy for it "provides its citizens a high degree of freedom, political equality, and popular control over public policies and policy makers through the legitimate and lawful functioning of stable institutions."[1] Then, they proceed to propose an assessment framework/design consisting of three interdependent, interconnected and interrelated quality dimensions: procedure, substance/content, and result. Procedure is about the nature, characteristics, methods, and the workings of the environment in which the product/governance is produced. The political/societal dimension is assessed through the rule of law, accountability, citizen participation, and electoral competition. Result is the quality of the product judged by the degree of satisfaction with the quality of governance and responsiveness to citizen expectations. Finally, substance or content is about the quality of the material, its structural durability, and the functionality of the outcome. In terms of governance, this is gauged through two variables: freedom and equality. The first refers to essential civil liberties, such as freedom of thought, information, assembly, expression, and religion. Equality is about the political and legal equality for all citizens. Some aspects of the procedural dimension have been explored elsewhere.[2] This study will focus on the two aspects of the content dimension: freedom and equality.

Modern Greece is a good testing ground. For much of its history since independence in the later 1820s-early 1830s, the country experienced political

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1 Larry Diamond and Leonardo Morlino, "The Quality of Democracy: An Overview," *Journal of Democracy* 15, (October 2004), 20-31. An expanded version of the essay served as the introduction to their edited compendium entitled *Assessing the Quality of Democracy* (Baltimore: The Johns Hopkins University Press, 2005), ix-xliii. It is also included in Diamond's recent volume, *In Search of Democracy* (London and New York: Routledge, 2016). The quote is taken from p. 35.

2 See my "Accountability and the Quality of Democracy in Greece," *Mediterranean Quarterly* 26, no.4 (2015), 110-131; and "Law Making, the Rule of Law and the Quality of Democracy in Greece," *Journal of Modern Hellenism*, 2015.

instability; various shades of authoritarianism alternated with periods of semi-democracy or weak and unconsolidated democracy. The fall of the colonels' military dictatorship (1967-1974) marginalized and delegitimized the proponents of right-wing authoritarian solutions, and the demise of the Soviet bloc some years later eliminated even the remote possibility of a communist alternative. Since the restoration of democracy in 1974, liberal democracy has become consolidated,[3] and although the recent and ongoing economic crisis has opened some political space for the extreme right, few believe that the country's democracy is in danger. The 1975 constitution is highly democratic, providing for regular, free, and competitive elections, freedom of expression, information or association, as well as political equality are constitutionally/legally protected. The constitution provides for a separate and independent judiciary and the country's positivist legal system is well established, complex and comprehensive. Greece's three law schools produce an abundance of lawyers, giving the country among the highest attorney/population ratios in the world and the highest in the European Union (EU).

But appearances can often mask deep, subtle, and pervasive quality problems. This study will seek to assess the quality of democracy in Greece by focusing on freedom and equality, which, as known, constitute the centerpieces of the content dimension of the quality democracy. Following an abridged summary of the theoretical aspects of freedom and equality, the article will bring forth the nature, and texture of the notion and practices of freedom in modern Greece, and the idiosyncrasies as well as the factors and forces that impede and hamper a fuller realization of these two key facets of the quality of democracy. The final section will speculate on future developments, especially in light of the protracted and crippling economic crisis.

The Freedom-Equality Tandem

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3 According to Juan J. Linz and Alfred Stepan, "a consolidated democracy is political situation in which democracy becomes the only game in town." This occurs in three interrelated levels: behaviorally, attitudinally, and constitutionally. The first means that no significant political group contemplates or attempts to bring about regime change through illegal or extraconstitutional means. Attitudinally, democracy becomes the only game in town when the overwhelming majority of the population sees political change only within the parameters of the democratic procedures and institutional framework, even in the face of deep political and economic crises. Constitutionally, democracy is consolidated when government as well as opposition political forces <become subjected to, and habituated to, the resolution of conflict within the specific laws, procedures, and institutions sanctioned by the democratic process." See their *Problems of Democratic Transition and Consolidation—Southern Europe, South America, and Post-Communist Europe* (Baltimore: The Johns Hopkins University Press, 1996), 5-6. For a more detailed analysis of democratic consolidation in southern Europe, including Greece, see, Richard Gunther, P. Nikiforos Diamandouros, and Hans-Jurgen Puhle, eds., *The Politics of Democratic Consolidation—Southern Europe in Comparative Perspective* (Baltimore: The Johns Hopkins University Press, 1995).

As in all dimensions of the quality of democracy, there is a dense and even intimate connection between individual freedom and equality; steps to strengthen and deepen one can have positive or negative consequences on the other, depending on the nature and texture of the action taken, as well as the timing, specific circumstances, and prevailing cultural, social, economic and other norms. Yet, the two facets constitute the indispensable bedrock upon which modern democracy rests. In fact, David Beetham avers that "democracy without freedom is a contradiction in terms."[4] Likewise, "democratic equality is a critical dimension of the quality of any system of democratic rule,"[5] as "the very word democracy commonly symbolizes the formal political equality of all citizens."[6] Morlino is equally emphatic, stating that freedom and equality "are the two main democratic values." In his mind, a good quality democracy is one whose institutions (national, regional, and local) are legitimate and strong enough to create and ensure the necessary conditions that realize and guarantee liberty and equality for all citizens.[7] And he adds that while the substantive dimensions "would not make sense without the procedural dimensions," nonetheless, as far as the "the overall quality of democracy [is concerned], the substantive dimensions are more important than the procedural dimensions."[8]

Freedom encompasses three intertwined types of rights: political, civil, and social or socioeconomic. Of the tree, political rights involve the right to elect and be elected. Put differently, political rights are about citizen right to vote in free, regular, and fair elections, political or aspiring political leaders to organize political parties and campaign for office, as well as the right to be elected and serve. For the right to vote to be meaningful, legal and other guarantees must be in place to "ensure that voters can cast their ballot in secret without coercion or fear, and with effective choice between candidates and parties that are able to contest in a level playing field."[9] The breadth and depth of political rights advance further when citizens "can influence or choose the electoral candidates in intra-party or primary elections, [and legal] immigrants can also participate in this part of the political process."[10]

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4 David Beetham, Freedom as the Foundation," in Diamond and Morlino, eds., *Assessing the Quality of Democracy,* 33.

5 Dietrich Rueschemeyer, Addressing Inequality, in Ibid, 50.

6 Diamond and Morlino, xxvi.

7 Leonardo Morlino, *Changes for Democracy: Actors, Structures, Processes* (London: Oxford University Press, 2012), 42.

8 Ibid, 208.

9 Diamond and Morlino paraphrasing Beetham, xxv.

10 Morlino, 205.

Civil or individual rights include privacy, security, personal liberty and freedom of thought, religion, speech, as well as access to accurate information. In addition, other essential civil liberties encompass freedom of assembly and association, the right to organize, form, and join political parties and trade unions, the right of legal defense and due process, freedom of movement, and freedom from arbitrary arrest and incarceration. To these, Diamond and Morlino add what they term "civil economic rights." Besides recognizing the rights of private property and entrepreneurship, such rights include: employment, acceptable working conditions, fair compensation, time-off and vacation, and the right of collective bargaining.[11] Finally, social rights embody a diverse list of additional but often costly and difficult to gauge democratic privileges, including the right of physical and mental health, the right to social help and retirement pension, the right to strike, the right to human dignity and to live in a clean, crime-free, secure, and healthy environment, as well as the right of shelter and to obtain an education.[12]

Equality, often referred to as political equality, is associated with such lofty phrases as "one person one vote" and "equal rights under the law." As Diamond and Morlino view it, a good democracy must strive to ensure all citizens and social groups have the same rights and legal protections, which include "a meaningful and reasonably prompt access to justice and power." But complete equality is difficult to achieve "even in strictly political terms," and more successful democracies are those who manage to reduce the disparities. Instead of equality across the board, it is more realistic to talk about "the prohibition of discrimination on the basis of gender, race, ethnicity, religion, political orientation, or other extraneous conditions."[13]

But political equality is not an autonomous and independent dimension. As Dietrich Rueschemeyer sees it, "the structures of social and economic inequality are intertwined with political equality, and shape it to profound ways both directly and indirectly."[14] In separate pieces Pierre Rosanvallon[15] and Danielle Allen,[16] too, believe that economic equality cannot be separated from social and political equality. Superior education, more information, economic wherewithal, and social status give

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11 Diamond and Morlino, xxv.

12 Morlino, 206.

13 Diamond and Morlino, xxvii.

14 Rueschemeyer, 47.

15 "How to Create a Society of Equals—Overcoming Today's Crisis of Inequality," *Foreign Affairs*, 95:1 (January/February 2016), 16-22.

16 "Equality and American Democracy—Why Politics Trumps Economics," *Foreign Affairs* 95:1 (January/February 2016), 23-28.

dominant groups or individuals disproportionate "influence how policies are made and implemented."[17] But it also puts them in a position to disproportionally influence, if not determine, social values and norms, including "the production of culture as well as on its diffusion through education and mass communication." Rueschemeyer refers to this as "cultural hegemony," and asserts that "unequal cultural influence creates substantial political inequality."[18] In short, no meaningful political equality can exist unless citizens have "some measure of equality in income, wealth, and status."[19]

To address the issue of inequality governments attempt to institute policies that would benefit the masses like education, health care, pensions, and other social benefits. However, such measures are costly and often governments lack the financial resources, administrative capacity and efficiency, as well as the will to implement them. Morlino asserts that despite protestations to the contrary, "implementation of equality is not always advocated by all supporters of democracy." In his view, pursuing political equality involves two distinct but interrelated phases. The first deals with statements against discrimination. He refers to this as formal equality and sees as the first and easier phase as it merely involves the affirmation of an objective. The second and more intricate phase is about the pursuance of "substantive equality," which concerns itself with "the lifting of barriers that limit social and economic equality." In many/most democracies, elite and mass commitment and the economic resources devoted are inadequate to achieve the utopian objective: unfettered political equality.[20]

As mentioned previously, freedom and equality are interdependent and intimately tied to other aspects of the quality of democracy, such as the rule of law, participation, and vertical as well as horizontal accountability. A clear, well understood, comprehensive, and unambiguous body of law is absolutely essential, and so is an independent, professional, capable, and legally empowered judiciary to enforce the rule of law and punish perpetrators. Care must be taken that steps designed to expand rights in one area do not limit or water-down rights in other areas. And it is not enough for laws to spell out intentions, but is equally important to provide the means and the resources to implement them. Loopholes or exceptions in the law or loosely worded provisions can lead governments-- particularly the executive branch--to corruption and abuse power that can have deleterious effects on citizen rights. Diamond and Morlino admit that "unless the courts have clear and final authority to adjudicate on these exceptions and protect rights, any government can contrive an excuse to suppress these rights."[21] Likewise, without public officials and other public office holders answering to the people/voters for their decisions and actions, freedom and equality are likely to

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17 Ibid, 50.

18 Ibid, 51.

19 Diamond and Morlino, xxvii.

20 Morlino, 207.

suffer. Only strong, legitimate but responsible state institutions can guard against corruption and enact and efficiently implement policies and programs that can protect citizen rights and ameliorate social and economic inequalities.

Regardless of how well established such institutional and practices are, citizen rights eventually would lose their quality unless there is a strong, robust, and active, participatory civil society[22] to act as a vigilant watchdog to restrain state power, empower citizens to understand the rights and obligations of democratic citizenship, and provide information, act as a counterweight to the cultural hegemony of the power elites, and "monitor and defends civil liberties and the integrity of the electoral process." A free, professional and rigorous mass media is an integral part of a robust civil society for not only it reports, but investigate[s], question[s], and expose[s] abuses of power that violate rights."[23]Beetham believes that a vibrant civil society can nurture a "culture of liberty" without which the quality of democracy would suffer. In his words, "the freedom of expression may be constitutionally guaranteed, but there may still be little diversity of opinion or few sources of public information, and the media may still be dominated by trivia. Freedom of association may be guaranteed, but there may still be little-self-organization or readiness to challenge an elected government."[24] Finally, at the end of the day, freedom and equality require a healthy measure of self-limitation by rulers and citizens alike. Self-restraint "is internalized and not imposed" and civil society can play an important in fostering such attitudes. Laurence Whitehead notes that "good citizens are those who learn to behave with civility towards each other, and with restraint towards the public authorities that uphold their rights." By the same token, self-limitation "is also required by the state," which, too, "must be regulated by law and be respectful of the rights and freedoms of citizens."[25]

The Facts on the Ground

How does Greece measures up against this theoretical layout? A good place to begin assessing the substantive or content dimension of the country's quality of democracy would be to look at two best known indices: Freedom House and The

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21 Diamond and Morlino, xxvi.

22 Here we employ Linz and Stepan's definition who see civil society "as the arena of the polity where self-organizing groups, movements, and individuals, relatively autonomous from the state, attempt to articulate values, create associations and solidarities, and advance their interests." See their *Problems of Democratic Transition and Consolidation*, 7.

23 Ibid, xxvi

24 David Beetham, Freedom as the Foundation, in Ibid, 34.

25 Laurence Whitehead, *Democratization—Theory and Practice* (Oxford: Oxford University Press, 2002), 168-169.

Economist Intelligence Unit's Democracy Index (EIU). Another frequently cited index, Bertlsmann Stiftung's Democracy Status, is of no help as it excludes North America, Western Europe (including Greece), New Zealand, and Australia. In the Freedom House's Freedom in the World Index Greece scores 2.0 across the board. The index measures the quality of democracy around the world utilizing a 1.0-7.0 scale: 1.0 (most free or full democracy) to 7.0 (least free or authoritarian). The scale is based on a composite of three categories of indicators: political rights-PR (electoral process, political pluralism and participation, and functioning of government), civil liberties-CL (freedom of expression, associational and organizational rights, rule of law, and personal autonomy and individual rights), and freedom rating (FR) which is the average of the first two (PR and CL). Countries scoring from 1.0 to 2.5 are considered "free," while those ranging between 3.0 and 5.0 are categorized "partly free," and 5.0 to 7.0 "not free." It is worth noting that all west European countries, along with Spain, Portugal, and even some former Warsaw Pact countries (Poland, Czech Republic, Estonia, Slovakia, Slovenia) score 1.0.[26]

The Economist Intelligence Unit's Democracy Index is the other prominent measurement. It scores the quality of democracy employing the average of 5 categories: electoral process and pluralism, civil liberties, functioning of government, political participation, and democratic culture. Each category is measured on the basis of different variables. The first (electoral process and pluralism) is based, among others on free, fair and competitive elections, universal suffrage, free party organization, and unfettered right of citizens to seek public office. The second takes in to account traditional civil liberties and civil rights, including free and independent news media, freedom of association and religion, the rule of law, judicial independence, equal treatment under the law, the right to own property, pursue an education, and to live in a safe and secure environment. The third category, functioning of government, encompasses legislative supremacy, checks and balances, government accountability, control of corruption, and a capable civil service. Political participation—which is the fifth category--embodies voter turnout, minority participation, female involvement in decision-making, citizen engagement in politics, and political party and NGO membership. The final grouping, democratic culture, is comprised of separation of church and state, citizen support (or lack thereof) of non-democratic governance, and societal coherence and consensus. The index scores countries on a 1.0-10 scale: 8.0-10 "full democracies," 6.0-7.9 "flawed democracies," 4.0-5.9 "hybrid regimes," and 1.0-3.9 "authoritarian." The score in the 5 categories are average to rank order the 167 entities (165 states and 2 territories) included in the survey. Greece's received fairly high score on electoral process and pluralism (9.58) and civil liberties (9.41). In the areas of political participation (6.67) and political culture (6.25) the country's performance is below the cut-off point expected of full democracies. A score of 5.36 in the functioning of government places Greece in the group of hybrid regimes. With an overall average of 7.45, Greece ranks 41 and is categorized as a flawed democracy. Countries like Poland, Latvia and Lithuania fare slightly higher, while Cyprus, Jamaica, and Brazil are a bit lower. Norway, Sweden, Iceland and New Zealand top the list; North Korea, the Central African Republic, and Chad are at the bottom.[27]

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26 https://freedomhouse.org/report/freedom-world-2015

Taken together, the findings included in the two indices indicate that Greece's quality of democracy is fair, but at the same time displays areas of weakness and point to the need for improvement. While useful, these indices suffer from data collection and other methodological flaws and tend to over-generalize. Potentially important nuances, such as the content and the quality of news or the influence of religion and culture on challenging authority or risk taking, cannot be easily quantified. Likewise, by their very nature these indices (and most others) do not fully or adequately identify and explain the causes/factors that account for cultural, societal, and/or other factors that affect counties' performance and the strengths or weaknesses in the different categories. A closer look at the situation on the ground can provide additional qualitative and quantitative data that can complement, supplement, and give bones and flesh to the useful but explanatorily limited picture associated with indices.

Few would disagree that since 1974 Greece has a strong record when it comes to political rights. The right to run for office and organize political parties and associations are enshrined in the fundamental law and respected by the citizenry. The right to vote is constitutionally guaranteed for all citizens, including the Muslim and other ethnic or religious minorities. Free and fair elections are held at regular intervals, and the country's multi-party and competitive system is open to all political ideologies and persuasions, even to the xenophobic and pro-Nazi Golden Dawn. Few Greeks miss the civil fratricide and political fragmentation of the 1940s, the parliamentary dictatorship, political exclusion, and electoral fraud of the 1950 and the early 1960s, or the colonels' authoritarian rule. Yet, although political parties are better organized and more cohesive than pre-1974, they continue to remain leader-dominated and internally undemocratic. The party leader has nearly exclusive control over policy choices and personnel selection. Primary elections to select candidates for office are totally absent; instead, the leader flanked with a few key assistants pick candidates for office to the exclusion of party organizations and society at large, including legal immigrants or Greeks citizens living abroad. The dominance of the leader is such that he/she can single-handedly kick out of the party anyone who disagrees or dares to cross the party line in parliament.

In addition, the Greek constitution guarantees civil or individual rights, such as freedom of thought, information, religion, privacy, and a host of other civil liberties and individual rights. Freedom of assembly and association, the right of legal defense and due process as well as protection against arbitrary arrest and incarceration are also legally protected. And so is the case with civil economic rights, such as right of private property and entrepreneurship, collective bargaining, employment, and adequate compensation. Even in the hard to measure and often costly area of social rights, Greece's legal edifice recognizes the right to strike, the right to live in a relatively clean and secure environment, as well the right to obtain an education and medical and social assistance. For example, strikes in Greece are frequent and involve not only industrial workers and those employed in state owned companies—such as transportation and utilities--but journalists, attorneys, doctors, notary public, and pharmacists. Even students use the right to strike and often occupy schools and universities. Education in all three levels is nearly free. This includes instruction, books, and at the tertiary level subsidies for meals and shelter.

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27 www.economistgroup.com/privacy/.

The percentage of university students in their age group (20-24 years old) has jumped from 3.0 in 1960 to 43 in 1995—a figure comparable to wealthier countries as Germany (44), Denmark (45), and Sweden (45).[28]

But in other aspects of civil rights the record is not as rosy. Few examples would suffice. The Greek constitution guarantees the right of private property and the country sports the highest percentage of home ownership in the EU, yet in reality the picture is murky, especially when it comes to land ownership titles. To this day, the dysfunctional and inefficient Greek state apparatus has yet to put together a land registry, despite pressure and financial and even technical support from the EU. As a result, multiple claims of ownership of the same piece of land and lack of accurate and usable records create situations where a half a dozen or more competing claimants resort to the overburdened, cumbersome, and glacial legal system without much success. In principle private ownership is legally protected, but failures in the rule of law and the functioning of the state put a fundamental right in a state of limbo, if not outright jeopardy. The findings of the *World Economic Forum*'s *Global Competitiveness Report* (GCR) corroborate the relatively weak protection of property rights in Greece. The index measures property rights using a 1.0-7.0 scale (1.0 little, 7.0 highest protection). In the 2015-2016 edition of the GCR, the country received a score of 4.0, ranking it 86 out of 140.[29]

The right to live in a secure and relatively healthy environment is another case in point. The influx of a large number of illegal and undocumented immigrants and refugees in the last two decades--along with increasing unemployment, human trafficking, illicit drugs, and other forms of crime—has rendered unsafe many areas of Athens and other urban centers. Crime has soared and the badly trained and underpaid police cannot cope with the situation. Citizen health is often endangered by frequent and lengthy strikes by sanitation workers and the authorities' failure to come with environmentally safe and sustainable ways to dispose waste. Mountains of uncollected garbage litter the streets becoming cesspools of disease endangering peoples' health.

This cursory discussion on freedom would not be complete without touching on the pivotal right of citizens to have access to accurate and diverse information. A free, professional, and independent mass media (print and electronic) is absolutely essential. Greece sports more daily newspapers than perhaps any other EU country, but face an increasingly uphill struggle to survive as newspaper readership has dwindled. They survive thanks to handouts or unpayable loans from the country's mass media conglomerates dominated by few family owned enterprises. In return, newspapers shy away from employing independent minded journalists who "have few outlets for their work."[30] The situation is even worse in the electronic media

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28 Bela Tomka, *A Social History of Twentieth-Century Europe* (London: Routledge, 2013), 372.

29 http://weforum.org/global-competitiveness-report-2015-2016

30 Pavlos Eleftheriadis, "Misrule by the Few—How the Oligarchs Ruined Greece," *Foreign Affairs* 93:4 (November-December 2014), 142-143.

where most Greeks receive their information. The same media moguls own the country's seven or eight private television channels that control nearly 90% of the market. The state owned channel has had a troubled existence. It had become a center of patronage and a dumping ground employing an excessive number of highly paid people many of whom had questionable credentials or never showed up for work. The previous conservative government shut it down a few years ago, but the channel was reopened earlier this year (2015) by its leftist successor. It is too early to tell whether the resurrection would lead to a new and more promising life. The first signs leave little room for optimism.

Equally troubling is the inferior quality of the news coverage. News stories are often based on rumors and not hard and carefully verified or cross-checked information. The majority of newspaper articles reflect the views of a particular political party or even a small faction within the party. TV coverage is no better. Marathon newscasts are frequent and contain frivolous, pedantic, superfluous, and poorly substantiated and often useless minutia. Instead of enlightening the citizens, news coverage leaves the public confused and poorly informed. It is also worth noting out that the situation has deteriorated in the last decade or so. Data provided by the *World Press Freedom* (WPF) indicates that press freedom in Greece has suffered a considerable decline since 2002. The 2015 edition of the report shows that in 2002 the country ranked 19 out of 134, but by 2014 its position dropped to 91 out of 180 counties included in the survey. The report states that "after falling 56 places from 2009 to 2014, [after Bulgaria], Greece now has the EU's second lowest ranking."[31] A similar decline is depicted in the *Freedom House's* 2015 *Map of Press Freedom* as well. The index scores press freedom on a scale of 0.0 (not free) to 100 (most free). Since 1995, the country's score declined from 29 to 51 in 2015. This means that freedom of the press in Greece has been moved from the "free" to the "partly free" category.[32]

Besides the mass media, state authorities are also responsible of informing the citizens of decisions that affect their lives. The information must be accurate and delivered in a timely fashion. Greek government authorities are notorious for presenting conflicting, unclear, frequently changing, half-baked, and even erroneous information to the public. It is not uncommon, for instance, for bills to be sent out after the deadline and/or contain wrong information. In another and more example the SYRIZA-led government, who had promised to do away with taxing property, changed its mind but did not decide whether and at what rate property holdings would be taxed. When finally made up its mind, it informed the tax payers that the payment was due in a week—a practice that put additional pressure on the crisis weary and financially exhausted Greeks.

Even in the area of political equality the record is mixed. Universal adult suffrage is an unquestionably reality in post-1974 Greece. The right to run for office and serve is well recognized as well, and areas in the north-eastern part of the country where the bulk of the country's Muslim minority is concentrated elect representatives from their ranks to the nation's parliament. Yet, no known member

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31 https://index.srf.org

32 https://freedomhouse.org/report/freedom-press-2015

of ethnic, religious, or any other minority has been elected or appointed to an executive, decision-making position; with the only exception being George A. Papandreou's unsuccessful attempt to promote the election of a Muslim woman to head a super-prefecture in the 2006 local and regional elections.

As far as the other cardinal tenet of equality, equal rights under the law, the record is spotty as well. Despite constitutional protections and a comprehensive legal system, the legal process in Greece leaves a lot to be desired. A complicated and convoluted legal system--coupled with less than desirable judicial independence, oversupply of unclear, contradictory, transparency lacking, and often unenforceable laws, and political interference--contribute to inordinate delays and unequal treatment under the law, with the well-connected escaping punishment and those less fortunate to experience the unpleasant consequences of the maxim: justice delayed is justice denied. A number of former and current members of the legal community have registered their disapproval of the way the country's legal system works or the conditions under which it functions. Judge K. Kousoulis, for instance, feels that "the distribution of justice in our country is immense problems. Courts are flooded with hundreds of thousands of cases and cannot respond satisfactorily to the needs of society and provide for fair and timely resolution of disputes."[33]More recently, Euterpi Koutamani, the head prosecutor of Greece's highest court, Αρειος Πάγος, pointed the finger at the nation's political class and noted with displeasure that intentionally designed laws to restrict courts, intervention in the administration of the judicial system, threats against judges, preferential treatment toward specific judicial servants, and public comments with the way cases are handled impede the courts' capacity to function and are harmful to judicial impartiality.[34] Survey data corroborates these views. For example, the *Rule of Law Index* measures how the rule of law is experienced in practical, everyday situations by ordinary people. The survey uses a 0.0-1.0 scale (the higher the better) to rank countries included in the 2015 survey. Greece scored .60, which places 33rd out of 102.[35] In the GCR the country scored 3.8 (1-7 scale) and ranks 70 out of 140. Finally, in the same index Greece fares worse when it comes to whether the wealthy and the well-connected receive preferential treatment by the legal system. With a score of 2.8, the country ends up in the 88 spot.[36]

And how do women and religious and other minorities fare? It would be a significant omission not to state that women's rights in Greece have made giant steps in the last four decades,[37] and the country's relevant legal framework is one of the most progressive in the EU. Suffice to say that while in 1970 only 14 out of 100 young women went to college, today the number has jumped to more than 50. During the same period, the ratio of male to female earnings (aka as gender wage

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33 *To Vema*, 5 July 2009.

34 *Kathimerini*, 13 December 2015.

35 http://worldjusticeproject.org

36 http://weforum.org/global-competitiveness-report-2015-2016

gap) declined from 35% to 22% (2010).[38]Arguably, the most striking social advances were made in the first 8 years in office (1981-1989) of the socialists (PASOK) led by Andreas Papandreou. Spurred into action by the prime minister's American born wife, Margarita/Margaret, women organized and managed to overcome skepticism from the patriarchal nature of Greek society and the conservative church hierarchy to pass long overdue legislation that, among others, abolished dowry, instituted civil marriage, required married women to retain their maiden name, and liberalized divorce restrictions.[39]

Despite these impressive gains, the gender gap is still evident. According to data put out by the Statistical Office of the EU, "the greatest pay inequalities are found in the highest income groups, the older age groups and among the highest educated."[40]Another report generated by the EU parliament, shows that though the pay gap has declined, it still remains 12.6 percent higher in Greece than the EU average: Greece 22.0%, EU 16.4%. The severe economic slowdown that began in 2010 and the successive austerity measures imposed by the lenders (EU and IMF) have led to over 50% reduction in salaries and pensions, and the layoff of about 150,000 public sector employees. Women bore the brunt of the dismissals. Similar conditions are evident in the private sector as well. Although laws prohibit discrimination, the report states "has become quite common that young women are often asked not to start a family if they are to get a job [and] reduction in pay and benefits during pregnancy." Without a doubt, the document concludes, the economic crisis and the austerity measures have "intensified discrimination against women," and deteriorating "employment relations and work conditions have affected women more than men."[41]

Greek women have done well in education and other professions, but have yet to break the glass ceiling in politics or in business. About 20% of the deputies in the

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37 For a very interesting historical analysis of the gender gap in Greece, see Efi Avdela, Between Duties and rights: Gender and citizenship in Greece, 1864-1952, in Faruk Birtek and Thalia Dragonas, eds., *Citizenship and the Nation-State in Greece and Turkey* (London: Routledge, 2005), 117-143.

38 *The Policy on Gender Equality in Greece*, Directorate-General for Internal Policies, Policy Department Citizens' Rights and Constitutional Affairs, European Parliament, 2014, : http://www.europarl.europa.eu/studies

39 For more details see Ms. Papandreou's recently published autobiography entitled *Love and Power—A Midwestern First Lady* (London: Austin Macauley Publishers Ltd., 2015).

40 Kathy Tzilivakis, "Equality Still Failing Women in Greece," *Hellenic Communication Service, L.L.C.,:* http://www.helleniccomserv.com/equality.html

41 *The Policy on Gender Equality in Greece*

300 member parliament are women, and that is roughly equal to the world average. But this is not reflected in the number of women reaching positions of decision making authority, however. Although the situation has shown some improvement in the last few decades, only a handful of females have been appointed to ministerial positions and two to president of parliament.[42]While there are more women members in the ranks of the leftist and now governing SYRIZA party, and 68 women (most ever) were elected to parliament in the January 2015 elections, this has not translated "into strong female representation on the cabinet." Only 6 of the 40-member executive are women, and none of them heads a senior ministry.[43] The glass ceiling for Greek women in the corporate world is even thicker, and few, if any, have managed to break through. The EU Gender Equality Index 2015 measures gender equality in 2005-2012 using a 0-100 scale: 100=complete equality, 0=total inequality. On the relevant domain of political and economic power Greece scored 28.3 and 17.0 respectively, both among the three lowest in the EU.[44]

Though they make up only about 2% of the population, religious minorities have faced similar if not more restrictions on their rights. The Greek constitution and laws protect religious freedom, but the dominant Orthodox Church enjoys privileges and prerogatives that are not extended routinely to other denominations.[45]These include financial support, and municipal and real estate transfer tax exemptions. In addition, the educational system is imbued with Orthodox precepts and values and in the words of Thalia Dragonas, "if not hostile, systematically ignores any form of cultural diversity and pluralism."[46]The Turkish speaking Muslim minority, estimated between 100,000-120,000 people, is by far the largest and its status is recognized by the 1923 Treaty of Lausanne. It confers Greek citizenship and grants the

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42 It is worth noting that George A. Papandreou made an effort to address the gender gap. His first cabinet (2009) included 9 women (out of a total of 40 ministers and deputy ministers), 5 of the 14 super/senior ministries were headed by women— the highest proportion ever.

43 http://.dw/com/en/little-room-for women-in-greek/cabinet

44 eige.europe.eu/sites/default/files/documens/mh0415169enn.pdf

45 John Anderson comments are instructive: "As the Greek state entered the new millennium constitutional and legal texts continued to protect the Orthodox Church's 'prevailing religion' status and offer it a degree of formal 'recognition' and public prominence unparallel in Western Europe." See "The Treatment of Religious Minorities in Southern Europe: Greece and Bulgaria Compared," *Religion, State, and Society*, 30:1 (2002), 11.

46 Thalia Dragonas, Religion in Contemporary Greece—A modern Experience?, in Anna Triandafyllidou, Ruby Gropas, and Hara Kouki, eds., *The Greek Crisis and European Identity* (Houndsmills, Basingstoke, Hampshire: Palgrave Macmillan, 2013), 117.

community the right to maintain mosques and charitable organizations, as well as bilingual education and freedom of worship.[47] Additionally, the Greek government gives special consideration to Muslims students from Thrace and Muslim religious law governs many aspects of the community's family life. Muslim clergy are on the government's payroll, as are their Orthodox counterparts.

Yet, the situation on the ground is less favorable. For instance, in the critical area of education, the quality of segregated minority schools is "very poor." As a result, "a large number of students completing primary education [are] illiterate in Greek and functionally illiterate in Turkish," [and] "the drop-out rate, compared to the national mean, is exceedingly high."[48]Defying condemnation from EU courts, the Greek state still insists having veto power on the selection of the community's head religious person. The words of Stavros Zoumboulakis--a man with strong religious background—sum up the situation succinctly: the "over 1000,000 Muslim Turks are Greek nationals who experience oppression and discrimination simply because of their religion and ethnicity."[49]The small Protestant or Evangelical community in Greece (20-30,000) feels discriminated against as well. Philemon Bantimaroudis stresses that Greece's dominant state ideology promoted by Greek institutions, including the Orthodox Church, is such that "Greeks who choose not to identify with the official religion are treated not only as different religion wise—heretics--but also as ethnically different—agents of the West and unpatriotic."[50]As John Anderson notes, "For many religious minorities it is hard not to see the position of the Orthodox Church as privileged and they express skepticism when the national church speaks about the 'threat' minorities pose to its position."[51]Finally, Greece was one of the last EU countries (December 2015) to extend some protective rights, including domestic partnership, to gays and lesbians.

Toward an Explanation

47 The treaty defines the rights of the Greek Orthodox minority in Turkey, especially Istanbul, which has steadily dwindled since the violence of the mid-1950s. For an exhaustive treatment of the issue see Speros Vryonis, Jr., *The Mechanism of Catastrophe—The Turkish Pogrom of September 6-7 1955 and the Destruction of the Greek Community in Istanbul* (New York: Greekworks.Com, 2005).

48 Dragonas, The Vicissitudes of Identity in a Divided Society—The Case of the Muslim Minority in Western Thrace, in Kevin Featherstone, ed., *Europe in Modern Greek History* (London: Hurst & Company, 2014), 145.

49 See his The Orthodox Church in Greece Today, in Triantaffylidou et al, *The Greek Crisis,* 150.

50 See his "Media Framing of Religious Minorities in Greece: The Case of the Protestants," *Journal of Media and Religion*, 6(3), 2007, 234.

51 Andserson, 11.

The discussion above provides ample evidence indicating that the freedom and equality dimensions of the quality of democracy in Greece is fair, but there is considerable room for improvement. There is a noticeable discrepancy between the legal/constitutional framework and the results on the ground. Put differently, there is clear difference between values—that is, judgments and intentions about the way things done—and practices, which the way things are done. Values is more about declarations and affirmations, but practices require concrete steps, resources, tools, and often difficult and costly decisions that have to be filtered through and internalized by the cultural, social, political, and economic milieu of a society. Three interrelated, interconnected, interdependent, and overlapping factors would help us understand the discrepancy between values and practices in the Greek context: Greece's culture environment, the state of political institutionalization, and the nature and texture of the country's civil society.

Broadly speaking, culture refers to attitudes, norms, beliefs, values and orientation, and underlying assumptions prevalent in a society. Culture performs a multitude of pivotal, interrelated but often subtle functions. Some of the most important ones include: establishes the framework within which material and symbolic priorities are set; creates unmarked by well understood boundaries; connects individual and collective identities; sets boundaries and the organization of conduct within and between social organizations; provides an ambiance to interpret the behavior, motives, and actions of others; furnishes the support for popular mobilization for political action; supplies people with the skills needed for survival; as the basis of social life sets norms, values, expectations, attitudes and provides the means for justification; and, finally, affects peoples' perceptions of reality, establishes an belief system through which they see it, and furnishes the filter through which they see the world, at home and abroad.[52] Among the many factors that influence culture include, religion, historical legacy, economic development, nature of political system, and the structure and resource control.

A detailed analysis regarding the nature and the sources of Greek culture is beyond the scope of this study, and has been attempted elsewhere[53]but a cursory summary of the country's culture would be useful. Greece's characterized by unenthusiastic attitudes toward merit and professionalism, preference for polychromic life and short-time horizons, disinclination toward planning and future orientation, reluctance to change, and weak capacity to formulate strategies to meet future challenges. Greek society is characterized by three additional cultural characteristics, which require a bit more explanation: high power distance, low levels of gender egalitarianism, and high degree of in-group or individual collectivism. Gender egalitarianism is the degree to which a society has managed to minimize differences between men and women in societal attitudes and

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52 Marc Howard Ross, Culture in Comparative Politics, in Mark Irving Lichback and Alan Z. Zuckerman, eds., *Comparative Politics—Rationality, Culture, and Structure*, 2nd ed., (Cambridge; Cambridge University Press, 2009), 134-161; and Garrick Bailey and James Peoples, *Introduction to Cultural Anthropology* (Belmont, CA: West/Wadsworth, 1999), 24-25.

53 See my "The Cultural Roots of Corruption in Greece"

organizations; the higher the degree of egalitarianism the lower the gender gap, and vice versa. High power distance societies display class differentiation, limited class mobility, weak civil liberties and public corruption, localized information modes and a pronounced need for resource coordination. Finally, in-group or individual collectivism refers to a culture that is deficient in communitarian values but fosters familial ties. Civil society is weak and fragmented, loyalty to the larger society is tenuous, and what matters more is individual loyalty to and cohesiveness of the family, clan, or ethnic group. Individual collectivist societies tend to be lax rule breaking and procedures. [54]

It takes little imagination to see that many of the characteristics of Greek culture are reflected in the norms, attitudes and behavior, as well as the general tone of the situation on the ground as far as the freedom and equality dimensions of the quality of democracy are concerned. There is little doubt that Greek culture is a key incubator, propagator, and the environment within which beliefs, values, and views are established, filtered, justified, anchored, and disseminated. But policies and their implementation can also reinforce cultural norms and attitudes and promote or retard change. Cultures, like most other social phenomena, are not immutable and can change. But change is neither easy nor comes about in prescribed and organized manner; instead, it takes a concerted effort and requires hard and often unpopular choices.

If culture is the motherboard, strong, legitimate, and responsible state institutions are the indispensable mechanisms that can enact and implement policies to promote citizen rights and guard against corruption, inefficiency and other forms of potentially damaging behavior. But to rise to this level of performance, state institutions must be institutionalized: higher degree of institutionalization lead to better performance. Institutionalization is defined by the organization's level of adaptability, complexity, autonomy, and the consistency of its structure, procedures, and values. By all accounts, Greek institutions suffer from low levels of institutionalization. Despite some improvement in recent years, interagency cooperation remains dismally poor. The state apparatus is disjointed, inefficient, and gets low marks on efficiency and policy implementation and follow up. Corruption is high, and the nation's political leaders have been unable or unwilling to fight it. Political parties are leader dominated and possess very weak organizational and policy generating capacity. Rhetoric aside, the executive shows little penchant to recognize and respect judicial independence. The role of parliament (Βουλή) resembles more of a talking rather than a working legislature, and its main function has been reduced to little more than approving or ratifying bills proposed by the executive.

Absence of continuity at the executive level is a major impediment to institutionalization. It is not uncommon for departing ministers to take with them key personnel and files, leaving the successor with little to go by. But is equally common for new ministers to denigrate and scrap policies pursued by their

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[54] The information used to categorize Greek culture is based on information from Robert J. House, Paul J. Hanges, Mansour Javidan, Peter W. Dorfman, and Vilpin Gupta, eds., *Culture, Leadership, and Organizations: The GLOBE Study of Sixty-Two Societies* (Thousand Oaks, CA: Sage Publications, 2004).

predecessors and announce new initiatives and new methods. The chorus of ever changing priorities is especially damaging in view of the fact that the average stint of ministers tends to be very short, as prime ministers for political and other reasons reshuffle the cabinet rather frequently. The situation is more critical at the office of the prime minister, which is the locus of authority but has a relatively small staff. George A. Papandreou, for instance, complained that when he took over the reins of power in October 2009, he inherited from his predecessor the grounds keeper, and several computers who had been stripped of the hard drive, but very little else. In January 2015, outgoing Prime Minister Antonis Samaras was not available to welcome and pass the baton to his successor, Alexis Tsipras.

The reasons and factors that contributed to low level of political institutionalization in Greece are complex and beyond the scope of this work. However, the emergence of two competing visions of statehood from the very inception of the Greek state is perhaps the most salient contributing factor. P. Niliforos Diamandouros, who developed this explanation, has dubbed it as cultural dualism. Advocated by Europeanized Greeks and those with international experiences, the modernist view sought the establishment of a modern centralized, democratic entity. The modernist/ reformist undercurrent advocated a market economy, a secular state, strong but responsible state institutions, individual rights, and a vibrant civil society that would restrain the state. By contrast, the second, oldest or traditionalist view was supported by the more indigenous groups who had in mind a more protectionist, paternalistic and authoritarian state. The traditionalists have an ambivalent attitude toward market economics and innovation, display introverted, parochial, introverted and primordial attachments, and nurture a latent authoritarian orientation and preference for "sultanist" regimes. Support for the two traditions/views cuts across social classes and regional and even ideological lines. While both experienced peaks and valleys, they have exhibited strong survival and entrenchment instincts. The conflictual logic between the two has done little to promote social consensus and aid the emergence of strong, stable, legitimate, coherent, and adaptable political institutions.[55]Being products of the same environment, Greek political elites have viewed governance as a zero-sum game, and have displayed a diachronic and excessive partisanship and cooperation- and consensus-averse attitudes. It goes without saying that such behavior has had deleterious consequences on institutionalization building.

Finally, a strong, active and robust civil society is absolutely essential to sustaining equality and freedom. A strong civil society serves democracy well because: lays the foundation for limiting the power of the state, and protects against potential power abuses by subjecting democratic governments to public scrutiny; enhances political parties by spurring political participation and strengthening the rights of citizens; provides for citizens to develop democratic attitudes, such as tolerance, moderation, and civility; provides avenues for minority groups to articulate and represent their interests; can serve as an incubator of ideas and training ground for future leadership; can help monitor elections and minimize

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55 The discussion on Greek cultural dualism is drawn from Diamandouros' "Cultural Dualism and Political Change in Post-authoritarian Greece." Estudo/Working Paper 1999/50 (Madrid: Centro de Estudios Avanzados en Ciencias Sociales, Instituto Juan Narch de Estudios Envestigaciones, February 1994.

fraud; assist citizen in the collection and dissemination of information; helps bring about economic reform by generating new ideas; and through vigorous and lawful accountability can enhance the legitimacy, effectiveness and responsiveness of the political system and the state. A robust, engaged, and effective civil society is compromise oriented and devoid of maximalist attitudes; social groups are institutionalized, stable, and prepared to engage in meaningful bargaining; pluralism and internal democracy are the guiding principles; and the ensemble of groups make up a dense and effective network that allows opportunities for influence in all levels of society. In contrast, a week civil society is characterized by: lack of group institutionalization and absence of internal democracy, maximalist and uncompromising views, lack of intra-group cooperation, low levels of pluralism and multivariate participation, pronounced in-group collectivism, avoidance of merit, short-time horizons, and feeble capacity formulate strategies to meet future challenges.[56]

Greek civil society is fragmented, lacks autonomy, density, pluralism, internal democracy, and displays nearly all the characteristics associated with weak civil society. Nikos Mouzelis and George Pagoulatos analyze the evolution of the less than robust state of civil society in post-war Greece and attribute the weakness to its "colonization," first by the state and in the last couple of decades by the nation's plutocratic and corrupt elites.[57]Although he takes a different approach, Dimtitri Sotiropoulos reaches a similar conclusion. He talks about "the paradox of a weak civil society in the amidst a flourishing democracy," and traces the roots of "underdevelopment" to: the domination of civil society by political parties who developed and maintained ties with faction/cells in major social organizations, such as labor and student union student; patronage-based subsidies to NGOs and associations from individual government ministers; and "the strong bonds and trust shown among members of [affluent] Greek families, which dampen chances of trusting non-relatives." Despite their proliferation in recent years, Greek NGOs continue to be inflicted by the same ills as their older counterparts, but also lack organization and internal democracy and have little contact with one another. In Sotiropoulos' terms, "most NGOs have never become modern formal organizations. They were often loose circles of personal friends and associates and except for a few associations which were annexes of international NGOs, such groups lacked organizational structures and management skills, such as fund-raising and communications capabilities." And he concludes that in this type of informal entities "decisions were rarely taken in a transparent manner and records of activities were not kept."[58]

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56 The discussion on civil society draws heavily from Diamond, *In Search of Democracy*, 118-132.

57 Civil society and citizenship in post-war-Greece, in Birtek and Dragonas, 87-103.

58 Dimitri A. Sotiropoulos, "Civil Society in Greece in the Wake of the Economic Crisis," Konrad Adenauer Stiftung, Auslandsburo Griecheland, December 2013: www.kas.de/griecheland

Civil Liberties and Equality in the Midst of Crisis

How has been the substantive or content dimension of the quality of the quality of democracy in Greece affected by the severe and on-going economic crisis? There is little doubt that the sovereign debt crisis has had a devastating impact on all aspects of life. Salaries and pensions have been slashed by over 50% and unemployment climbed to nearly 28%, but among the young is closer to 60%. Draconian cuts have devastated the nation's health system and all but obliterated the welfare state. About 220,000 small to medium size business have disappeared since the crisis broke out; the number of establishments has dropped from more than 820,000 in 2008 to barely 600,000 today. According to the Greek Institute of Commerce and Services, about 35% of the commercial space in Athens' main shopping streets stands vacant. The institute reports that nationally nearly 90 small business outlets close down every day.[59]Property values have plummeted by almost 70% and a quarter of the population lives on or below the poverty line. Despite billions of euros of bailout loans from the IMF and the EU, the country's GDP has shrunk by 25% and total government debt exceeds 320 billion Euros. Recent polls indicate that more than 80% of the Greeks believe that 2016 will see a further deterioration of the situation. The crisis had a negative impact on the country's political landscape as well. The hegemony of two governing parties—PASOK and New Democracy, ND)—is gone and the hitherto marginal party, SYRIZA, is now in charge of the government in coalition with a small right wing entity (ANEL). Arguably, the rise of the xenophobic, pro-Nazi Golden Dawn is a most concerning development.

This general malaise has had negative consequences on citizen rights. The crisis has led to the virtual elimination of collective bargaining rights. The already legislatively weak parliament suffered further erosion. Using constitutional/legal loopholes or ambiguities that allow the executive to issue emergency legislative decrees in situations of emergency (Πράξεις Νομοθετικού Περιεχονένου), all cabinets since 2011 have rammed through the chamber nearly the entire panoply of legislation surrounding the sovereign debt crisis. Parliament legitimizes extraordinary decisions that would bind future generations of Greeks without much debate or input; legislative supremacy, a key hallmark of democratic governance, has been relegated into an empty symbolism. An incident of the low regard the executive harbors toward parliament took place recently when a government minister introduced an amendment to a bill and went before the chamber to plead for its passage, but once the amendment passed he turned around and stated that he no intention to implement it. It is no accident that parliament's approval has sunk to new lows—only 6% of the Greeks approve of its performance.[60] Similarly, though innovative interpretations and legalisms, the executive enacts regulations that collect taxes and fees retroactively in clear violation of one of the cardinal principles of the rule of law: laws cannot be retroactive. Additionally, the crisis has led to widening inequality. As measured by the Gini Index (0=complete equality,

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59 "To martyrio tou louketou stoiheionei tous emporous," *Ta Nea,* 2 January 2016: http://www.tanea.gr/PrintArticles/?artcle=5323206

60 *Ta Nea,* 20 December 2015.

1.0= wide inequality), Greece has now one of the highest levels of inequality in the EU. According to a special report published by ELIAMEP's Crisis Observatory, Greece's Gini score in 2011-2013 averaged 0.344, which is "among the worst performance overall and one of the countries experiencing a significant increase in inequality."[61]

But in the midst of the thick cloud and gloom and doom, one can detect a few signs of hope and a spirit of not giving up. While the traditional NGOs have lost their funding to government cutbacks and have become even less useful than before, civic activism has experienced substantial growth. In an interesting article by freelance writer Betty Reinerink, entitled "How Greece's economic crisis produced an emerging civil society," she asserts that in the thick of the crisis "there is a bright spot, it is grassroots social initiatives mushrooming all over [Athens]." All sorts of professionals, from teachers to chefs, "have channeled their energies into ways to feed, house, and maintain the dignity of thousands of people suffering from deep cuts in social services."[62] Sally Brammall and Tom Walker of the *Guardian* tell a similar story.[63] Though more robust that before, social activism of this type is still in the early stages, but it is a hopeful sign that has the potential to revitalize and strengthen the quality of democracy in Greece. After all, Oriental philosophy teaches us that a crisis presents daunting challenges, but also opportunities for rejuvenation and renewal. Time will tell.

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61 Dimitris Katsikas, Alexandros Karakitsios, Kyriakos Filinis, and Athanasios Petralias, *Special Profile Report on Poverty, Social Exclusion, and Inequality Before and After the Crisis in Greece* (Athens: ELIAMEP, Crisis Observatory, 2014), 61-63.

62 Criticscope.org/story/2015

63 "The rise of Greek civil society," http://www.the guardian.com/voluntary-sector-network/2014