

Narratives of the European Crisis and the Future of (Social) Europe

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INTRODUCTION

I would like to start with a few words about the *Texas International Law Journal* Euro Crisis Symposium's (the Symposium) excellently minimalist but evocative poster, which captures the ambient atmosphere in European politics since the 2007–08 financial crisis (the crisis).¹ Designed in what could perhaps be described as a gothic-influenced modernist style, the center of the poster is dominated by a black-grey structure, strongly reminiscent of the European Central Bank's (ECB) building in Frankfurt, rising high toward a sky dominated by grey and white clouds. The cloud-like figures are perfect circles, darker in color as they grow bigger in size, immediately invoking the now familiar way of representing national debt burdens in

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1. Poster, *Tex. Int'l L.J.*, Symposium 2012: The Euro Crisis (Feb. 9–10, 2012), <http://www.tilj.org/wp-content/uploads/2011/09/EuroCrisisImage.jpg>.

some of the most popular graphics used in the press.² The general mood is one of an approaching, if not fully-fledged, storm raging at the financial heart of Europe. Finally, not to be missed are the letters announcing the Symposium, inscribed in *Star Wars*-like fonts, hinting at academia's deep connection with "the Force"—and hence a potential solution rising from Europe's own technocratic core. Beyond illustrating the general ambience surrounding the crisis, the Symposium poster also helps highlight two distinct underlying narratives about causes of—and therefore solutions to—the crisis, on which I would like to concentrate my comments. One could see the darkening clouds or debt burdens of the member states as the reason for the ECB-like figure's darkness; or inversely, one could wonder about the role of this dark protagonist in generating the clouds now dominating the background.

During the presentations at the Symposium we discussed the Stability and Growth Pact, its enforcement shortcomings, and potential solutions to these shortcomings, including the newly legislated six-pack.³ Furthermore, we discussed—and some questioned—the need for increased financial regulation, the legality of a potential euro exit, as well as the risks entailed in some of the bank bailouts engineered by several member states' governments in the aftermath of the crisis.⁴ What I would like to do here is provide an analysis of two distinct types of narratives, circulating in both popular and academic press, about the causes and therefore the solutions, to the crisis. Each type of narrative entails different understandings of the role of member states and the European Union (EU) itself in the production of the crisis. Are the member states' debt clouds to blame for the darkness of the ECB-like structure at the center of the poster? Or does the figure itself have something to do with the production of the clouds? Like all good stories, each narrative has victims and culprits, villains and protagonists, and each one suggests distinct approaches towards finding potential solutions—happy endings.

In the first part of my Article, I will present two types of narratives. In the first category, the crisis appears to be the result of member states failing to fulfill treaty obligations because of their ballooning welfare states, causing a cascade effect for the rest. In the second category, member states fail in their obligations, but are themselves the victims of structural defects in the very design of the euro zone, or at the very least structural forces due to the design of the euro.⁵ I will suggest that politicians in both creditor countries and debtor countries appealed mostly to the first narrative in the early stages of the crisis, each for their own reasons. The later

2. Bill Marsh, *It's All Connected: An Overview of the Euro Crisis*, N.Y. TIMES, Oct. 22, 2011, <http://www.nytimes.com/interactive/2011/10/23/sunday-review/an-overview-of-the-euro-crisis.html>.

3. The six-pack is a combination of five regulations and one directive that entered into force in December 2011. Eur. Comm'n, *Six-pack? Two-pack? Fiscal Compact? A Short Guide to the New EU Fiscal Governance*, ECON. & FIN. AFF. (Mar. 14, 2012) [hereinafter *Guide to EU Fiscal Governance*], http://ec.europa.eu/economy_finance/articles/governance/2012-03-14_six_pack_en.htm. They provide a reinforcement of "the preventive and the corrective" parts of EU fiscal supervision, and they are meant to strengthen compliance with the Stability and Growth Pact, which forbids member states from maintaining a public debt of more than 60% GDP or a budget deficit of more than 3% GDP. *Id.*

4. Gerard Hertig, Swiss Fed. Inst. of Tech., Keynote Address at the Texas International Law Journal 2012 Symposium: The Euro Crisis (Feb. 9, 2012).

5. I will focus here on current structural accounts of problems with the euro, even though several academics foresaw significant structural problems, some even claiming they would lead to a likely euro breakup. *E.g.*, Hal S. Scott, *When the Euro Falls Apart*, 1 INT'L FIN. 207 (1998). Similarly, Martin Feldstein famously predicted that the euro was likely to lead to increased conflict within Europe. Martin Feldstein, *EMU and International Conflict*, FOREIGN AFF., Nov.–Dec. 1997, at 60.

stages of the crisis have made evident its structural nature but the propagation of the first type of narrative is making the resolution of the crisis a difficult political challenge.

In the second part, I will argue that the discourse employed by the European Commission (the Commission) throughout the crisis has not been characterized by a moral impugnation of lazy southerners, but instead, of their corrupt and inefficient state structures. The remedies proposed for that problem are strikingly in line with the structural conditionality of the loan agreements with the EU and the International Monetary Fund (IMF), but more importantly, they are strikingly in line with the recommendations coming out of the EU for the last decade not only on growth, but also on social cohesion. The language that the Commission has been using to describe the structural conditionality of the Greek loans shows an understanding of social cohesion almost entirely based on active labor markets combined with minimum safety nets. Thus, even though the Commission refrains from using the moral narrative, it employs a structural account of the crisis that suggests solutions almost identical to the EU and IMF recipe for Greece. This, I argue, signifies a defeat for the progressive forces that had been pushing for the creation of a “Social Europe,” closer to the welfarist traditions of some European states.

I. EXPLORING THE MORAL AND STRUCTURAL NARRATIVES ON THE CAUSES OF THE CRISIS

A. *The Moral Narrative: P.I.I.G.S., Ants, and Grasshoppers*

Greece needs to do its own homework to become competitive We're happy to help but we shouldn't give others the feeling that they don't have work [sic] hard themselves. Every country is responsible for itself.

Wolfgang Schäuble, German Finance Minister, February 2012⁶

The first narrative is very straightforward and bears all the structural characteristics of a good fairy tale: a good character, getting entangled in some adventure because of his or her own failures or someone else's evil acts, a correction of the failure or evil act, followed by a swift resolution from which a moral teaching can be drawn for future reference. In the case of the crisis, the very name given to the group of euro zone countries that were first targeted by bond investors in 2009 hints at this narrative: P.I.I.G.S. (Portugal, Ireland, Italy, Greece, Spain).⁷ In this

6. Erik Kirschbaum, *Schaeuble Warns Greek Promises No Longer Suffice*, REUTERS (Feb. 12, 2012), <http://www.reuters.com/article/2012/02/12/us-germany-greece-idUSTRE81B05N20120212> (quoting Vol Olaf Gersemann and Jan Hildebrand, *Davon geht die Welt nicht unter*, WELT AM SONNTAG, (July 29, 2012), <http://www.welt.de/print/wams/wirtschaft/article108407703/Davon-geht-die-Welt-nicht-unter.html>).

7. See Nouriel Roubini, *Teaching PIIGS to Fly*, PROJECT SYNDICATE (Feb. 15, 2010), <http://www.project-syndicate.org/commentary/teaching-piigs-to-fly> (referring to the group of countries as “the PIIGS economies” in a discussion of possible tactics for dealing with the euro zone's financial problems); see also Shira Ovide, *PIIGS to the Slaughterhouse. Meet GIIPS.*, DEAL J. (July 15, 2011), <http://blogs.wsj.com/deals/2011/07/15/piigs-to-the-slaughterhouse-meet-giips/> (discussing how political correctness has led many commentators to reverse the acronym so that the indebted European periphery

version of the story the little P.I.I.G.S. were either good characters committing the mistake of overburdening themselves with debt or, in a slight variation, they were the evil characters threatening the innocent euro zone and, more specifically, their northern partners with destruction because of their profligacy.

This last version of the crisis can also be compared to the ant versus the grasshopper fairy tale. The industrious ants spent their days laboring and saving for the future, while the lazy grasshoppers sang and lived the good life—that is, until hard times arrived. The desperate grasshoppers then knocked on the door of the industrious ants asking them for something to eat so as to survive the winter.⁸ Just like the industrious ants of the fairy tale, northern European neighbors of the lazy European southerners had to choose whether to help the desperate grasshoppers or not, with the twist of course that in the euro zone’s case the grasshoppers’ deaths threatened the demise of the ants as well. The euro was founded on an explicit agreement that each country would maintain debt levels below 60% of its GDP and primary deficits lower than 3% GDP, as well as a “no-bailout” clause, which had from the beginning been inserted in order to assure the industrious north that monetary union with a lazy south did not mean mutual sharing of debt.⁹ The crisis in this version then could straightforwardly be characterized as a debt crisis instigated by the profligacy of greedy little grasshoppers.

Enter the Greek grasshoppers. Since the beginning of the crisis, Greece was used as a stand-in for the debt problems facing the entire European periphery. The Greek narrative influenced the way European policymakers imagined the roots of the problem for the entire periphery and the types of solutions they devised at the European level: partial, reluctant, and aimed at remedying an imagined public-debt crisis caused by the profligacy of unsustainably generous welfare states. In the case of Greece, common characters started to pop up—welfare queens and kings who retired at unsustainably young ages¹⁰ and public sector employees who commanded

is referred to as GIIPS).

8. Greek economist Yanis Varoufakis has also used the ants and grasshoppers metaphor to describe how European politicians dealt with the Greek crisis. Yanis Varoufakis, *NEVER BAILED OUT: Europe’s Ants and Grasshoppers Revisited*, YANIS VAROUFAKIS (Dec. 15, 2011), <http://yanisvaroufakis.eu/2011/12/15/never-bailed-out-europes-ants-and-grasshoppers-revisited/>.

9. *Guide to EU Fiscal Governance*, *supra* note 3; See Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community art. 125, Dec. 13, 2007, 2007 O.J. (C 306) 30 [hereinafter Lisbon Treaty] (“A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project,” thus establishing a “no bailout” clause.); *see also* Scott, *supra* note 5, at 209 (stating that within the European monetary union, national debt is solely the responsibility of each particular country as opposed to a mutual burden among members).

10. *See, e.g.*, Diane Francis, *Greece Is Not a Country, It’s a Party*, HUFFINGTON POST (June 8, 2011), http://www.huffingtonpost.com/diane-francis/greece-is-not-a-country-i_b_871296.html (stating that Greeks retired, on average, at only 53 years of age); Walter Loeb, *Retirement in Germany May Rise to Age 69 While Greece Is at Age 58*, FORBES (June 17, 2012), <http://www.forbes.com/sites/walterloeb/2012/06/17/retirement-in-germany-may-rise-to-age-69-while-greece-is-at-age-58/> (comparing retirement ages in various European countries and highlighting that Greece is among the lowest). However, these accounts are not accurate. Average age of labor force exit for Greek women was 62.4 and 60.9 for men in 2009. OECD, *SOCIETY AT A GLANCE 2009: OECD SOCIAL INDICATORS 83 tbl SS6.1* (5th ed. 2009) [hereinafter *SOCIETY AT A GLANCE*], available at <http://www.oecd-ilibrary.org/docserver/download/8109011e.pdf?expires=1360263478&id=id&accname=guest&checksum=A6154B8FEE2F329689ED5AC09BCB2843>.

Greek women retire on average slightly later than German women, and Greek men slightly earlier than

insane privileges as compared to their private sector colleagues.¹¹ With a slight of hand, these characters were then made out as representatives of the European welfare state in general, which, given the crisis, was beginning to look particularly unsustainable.¹²

The Greek story had a private sector piece to it as well. Private sector employees started appearing along with their inflated wages and their favorable collective agreements, which were said to have caused the crisis of competitiveness that ended up undoing the sustainability of Greek debt in the last decade.¹³ Add to

German men. *Id.* German and Greek workers both retired at ages slightly below the OECD average. *Id.* The official retirement age in 2008 was 65 for both men and women. See OECD, PENSIONS AT A GLANCE 2011: RETIREMENT-INCOME SYSTEMS IN OECD COUNTRIES: GREECE 1, available at <http://www.oecd.org/greece/47272439.pdf> (“The normal pension age is 65 for both men and women.”). In addition, Greek workers work much longer hours than the OECD average and certainly much more than the average German. In 2008 Greeks reached an annual average of 2051 working hours, compared to the German average of 1422. *Average Annual Hours Actually Worked Per Worker*, OECD.STATEXTRACTS (Feb. 7, 2013, 7:01 PM), <http://stats.oecd.org/Index.aspx?DatasetCode=ANHRS>. From a fiscal perspective, however, Greece’s pension expenditures were significant even before the crisis and had long been the cause of major concern. The size of pension expenditures is partly due to the fact that the Greek state was making up for meager social transfers, such as housing and unemployment benefits, through inefficient pension transfers. Manos Matsaganis, *The Welfare State and the Crisis: The Case of Greece*, 21 J. EUR. SOC. POL’Y 501, 503 (2011). The other part of the explanation is the clientelist nature of the Greek state, which resulted in a hugely fragmented pension system. It lacked truly universal coverage and provided radically distinct benefits for different groups of workers. It benefited the self-employed over the salaried, public over private sector workers, the middle-aged over the young, and men over women. *Id.*

11. See, e.g., Raffaella Giordano et. al., *The Public Sector Pay Gap in a Selection of Euro Area Countries* 25 (European Cent. Bank, Working Paper No. 1406, 2011), available at <http://www.ecb.europa.eu/pub/pdf/scpwps/ecbwp1406.pdf> (explaining the benefits public sector employees in Greece enjoy as compared to their counterparts in other European countries, including lifetime contracts and protections from termination); John Sfakianakis, Op-Ed., *The Cost of Protecting Greece’s Public Sector*, N.Y. TIMES (Oct. 10, 2012), <http://www.nytimes.com/2012/10/11/opinion/the-cost-of-protecting-greeces-public-sector.html> (“Wages in the public sector were on average almost one and half times higher than in the private sector.”).

12. See Robert J. Samuelson, *Greece and the Welfare State in Ruins*, WASH. POST (Feb. 22, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/02/21/AR2010022102914.html> (“The threat to the euro bloc ultimately stems from an overcommitted welfare state.”).

13. See Stathis Tikos, *National General Collective Agreement Signed for 2008–2009*, EIRONLINE (Sept. 08, 2008), <http://www.eurofound.europa.eu/eiro/2008/05/articles/GR0805039I.htm> (discussing a new collective agreement in Greece increasing minimum wage rates by 12.42% over two years); see also Matthew Higgins & Thomas Klitgaard, *Saving Imbalances and the Euro Area Sovereign Debt Crisis*, 17 CURRENT ISSUES IN ECON. & FIN., no. 5, 2011 at 5–6, http://www.newyorkfed.org/research/current_issues/ci17-5.pdf (explaining the various factors that led to Greece’s loss of competitiveness within the euro zone). Interestingly employers’ associations in Greece have noted that “competitiveness problems were not due to wage levels . . . and that the collective bargaining system was balanced and protected sound competition.” ILO, REPORT ON THE HIGH LEVEL MISSION TO GREECE 30 (2011), available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/missionreport/wcms_170433.pdf. Greece is a country with a large informal sector almost entirely outside the purview of collective agreements. See LENA TSIPOURI ET AL., FLEXIBILITY AND COMPETITIVENESS: LABOUR MARKET FLEXIBILITY, INNOVATION AND ORGANISATIONAL PERFORMANCE (FLEX-COM), NATIONAL REPORT: GREECE, FINAL REPORT 2, available at flexcom.econ.uoa.gr/files/NationalReport_Greece.doc (calculating the Greek informal sector at between 29%–36% of the overall economy and noting that “institutionalisation of flexible labour forms will not improve the competitiveness of small companies (which will continue to favour the informal sector)”). Additionally, microfirms, characterized by informal labor arrangements, comprise 91.8% of establishments in the Greek economy. See *id.* (concluding that such microfirms would continue to favor informality despite the availability of formal flexible contracts).

that the Greeks' penchant for not paying their taxes, and you have a morally corrupt people who are expecting extravagant state perks while giving nothing in return.¹⁴ This version of the narrative was propagated once more recently, this time by the head of the IMF, Christine Lagarde, who scolded the poorest of Greek parents whose children were going hungry for not paying their taxes.¹⁵

The suggested solutions in this version of the narrative almost insinuated themselves from the moral and other failings of the characters. If the problem was one of unsustainable public profligacy, then the solution could be quickly pointed out: cut back on public spending and, more specifically, on those extravagances that had to do with the excesses of the welfare state and the privileges of certain categories of workers, which turned a state's labor force uncompetitive *vis-à-vis* the northern euro zone countries. Dramatic reforms in the private sector labor conditions were indeed part of the conditionality attached to the loan agreement that Greece received from its partners in the euro zone, along with the IMF in May 2010.¹⁶ So was a very imaginative, highly desirable—but surely impossible in the timeline allowed—reordering of Greece's tax administration.¹⁷

14. Greece is the typical case of a “tipping point” in tax evasion, whereby relatively high tax rates for individuals combine with low corporate rates and state corruption to produce a state of affairs where it makes sense to try to hide your income because you are not getting your euro's worth of public services. See Manos Matsaganis & Maria Flevotomou, *Distributional Implications of Tax Evasion in Greece* 20, 24 (Hellenic Observatory, Greece Paper No. 31, 2010) (finding that tax evasion is around 10% in the lower income strata, falls to 5–8% in the middle income strata, and sharply rises to 15% in the higher income strata). The clientelist nature of the Greek state also guarantees an asymmetric risk of punishment for tax evasion for clients as compared to non-clients. Greek politics were recently rocked by revelations that two consecutive finance ministers from 2010 to 2012 sat on a list containing thousands of names of Greek Swiss bank account holders instead of using the list to identify high value tax evaders. One of the finance ministers is being investigated for allegedly having removed names of relatives from the original list. Helena Smith, *Greece's 'Lagarde list' Sparks Calls for Catharsis over Tax Avoidance*, THE GUARDIAN (Jan. 7, 2013), www.guardian.co.uk/world/2013/jan/07/greece-christine-lagarde.

15. Larry Elliott & Decca Aitkenhead, *It's Payback Time: Don't Expect Sympathy—Lagarde to Greeks*, THE GUARDIAN (May 25, 2012), <http://www.guardian.co.uk/world/2012/may/25/payback-time-lagarde-greeks>.

16. See Directorate-General for Econ. & Fin. Aff., *The Economic Adjustment Programme for Greece*, 21–22, 79–80, Occasional Papers 61 (May 2010) [hereinafter *Economic Adjustment Programme*] (noting the revision of private sector wage bargaining as a condition to the agreement in addition to noting how public sector changes should signal corresponding changes in the private sector); Int'l Monetary Fund, *Europe and IMF Agree €110 Billion Financing Plan With Greece*, IMF SURV. MAG.: COUNTRIES & REGIONS (May 2, 2010), <http://www.imf.org/external/pubs/ft/survey/so/2010/CAR050210A.htm> (describing the agreement made between Greece, the IMF, and other euro zone countries). The insistence on labor market reforms on the part of the IMF and the EU is surprising given the lack of evidence in international literature about the effectiveness of labor market flexibility in spurring growth. See Alvaro Santos, *Labor Flexibility, Legal Reform, and Economic Development*, 50 VA. J. INT'L L. 43, 49 (2009–10) (reviewing the relevant literature and positing that “we know less than we might think” about the impact of labor market flexibility on “job creation, unemployment duration, productivity, investment in research and development, and, ultimately, on economic growth”). Greek labor markets are characterized by de facto flexibility, since so-called rigid labor provisions are only applicable to a small portion of the private sector businesses. TSIPOURI, *supra* note 13, at 2; see also Philomila Tsoukala, Op-Ed., *A Family Portrait of a Greek Tragedy*, N.Y. TIMES (Apr. 25, 2010), <http://www.nytimes.com/2010/04/25/opinion/25tsoukala.html> (arguing that since most of the private sector businesses are family-owned, they rely on family labor, and therefore “no minimum-wage or maximum-hour laws apply”). Moreover, “[u]ntil Greece can find a way to disentangle the private sector from the family and find another way to allocate resources . . . no amount of reform will make a difference.” *Id.*

17. *Economic Adjustment Programme*, *supra* note 16, at 44 (detailing Greece's tax reforms); see also Paul Tharp, *Greek Tax Ax Cuts to Bone, Portugal Worries Deepening*, N.Y. POST (Apr. 16, 2010),

Other countries were advised to quickly cut down on their own public spending lest the markets decide that their debt burdens were unsustainable and, hence, produce a liquidity crisis for these countries too.¹⁸ The moral of the Greek story was that European welfare states had become unsustainable, and the best that member states could do was to start the process of trimming on their own before they were forced to do so through the accumulated pressure of market speculation and exclusion from international financial markets.

B. Structural Stories: Who's the Grasshopper Now Dear Ant?

Despite this straightforward tale of crime and punishment, there were still voices pointing to the structural nature of the crisis and the need for a structural solution from every side of the political spectrum. As early as April 2010, Martin Feldstein, former Chief Economic Advisor to President Reagan, pointed out that if it were not for the euro, Greece's bonds would not have been trading almost on par with Germany's, and Greece would have been forced to restrain its public spending given a lack of access in the international financial markets.¹⁹ In addition, Feldstein pointed out that in the context of the EU/IMF loan, without the possibility of devaluation, the austerity demanded significant contraction of the Greek economy, as well as political difficulties.²⁰ The true lesson to be learnt from the crisis was not simply that Greece would not have borrowed as much or would have adjusted more easily had it not been for the euro, but rather that the very design of the euro was to blame for the current situation, which was common throughout what began to be referred to as the European periphery.²¹ This structural account has various versions as well.

One of the structural accounts involves Nobel Laureate Robert Mundell's theory of what constitutes an optimum currency area (OCA).²² According to Mundell's theory, for a common currency area to work well the different regions in the area should be exposed to similar sources of economic disturbance, disturbances should have the same effects within regions, and regions should have similar

http://www.nypost.com/p/news/business/greek_tax_ax_cuts_to_bone_sxoH3tXCghQSELYnw365sM (describing the tax reforms as extensive and harsh).

18. Toby Helm, Ian Traynor & Paul Harris, *Europe Embraces the Cult of Austerity—But at What Cost?*, THE GUARDIAN (June 12, 2010), <http://www.guardian.co.uk/business/2010/jun/13/europe-embraces-cult-of-austerity>.

19. Martin Feldstein, *Why Greece Will Default*, PROJECT SYNDICATE (Apr. 28, 2010), <http://www.project-syndicate.org/commentary/why-greece-will-default>.

20. *See id.* (noting that to get Greece back to the prescribed “debt-to-GDP ratio [of] 60% level” would mean reducing the budget deficit by 10% of its current GDP). Feldstein noted that this reduction would not only be politically difficult, but would also lead to either an “enormous cut in government spending or a dramatic rise in tax revenue, or both.” *Id.* The fact that a neo-classical economist like Feldstein was clear about this dynamic from the beginning, as were the Keynesians, suggests there was consensus from a broad spectrum of economists. For a more typically Keynesian take on the euro's structural problems, see Joseph E. Stiglitz, *Can the Euro be Saved?*, PROJECT SYNDICATE (May 5, 2010), <http://www.project-syndicate.org/commentary/can-the-euro-be-saved>.

21. *See Stiglitz, supra* note 20 (noting structural problems in the euro zone such as the fixed exchange rate and Germany's trade surplus, which essentially puts the rest of the euro zone at a deficit).

22. The discussion on optimum currency areas is mostly drawn from HENDRIK VAN DEN BERG, INTERNATIONAL FINANCE AND OPEN-ECONOMY MACROECONOMICS: THEORY, HISTORY, AND POLICY 645–52 (2010).

responses to shocks.²³ If the different regions of the common currency area are subject to regional shocks, then prices and the supply of labor need to be able to adjust quickly.²⁴

Why is this? In order to illustrate, Mundell uses the example of two countries, A and B, with fixed exchange rates and their central banks actively intervening in currency markets to maintain the peg.²⁵ If there is a shift in global demand from country A's products to country B's products and prices between these two countries do not adjust quickly and labor does not move, the result is going to be a surge in unemployment in country A, and inflationary pressures in country B.²⁶ If country A intervenes in the currency markets to try to maintain the fixed exchange rate by buying its own currency so as to avoid depreciation, the result is going to be a shrinking money supply and a worsening of the unemployment problem.²⁷ Similarly, if country B intervenes in the currency markets by selling its own currency to avoid appreciation, this is going to further exacerbate the inflationary pressures by flooding the markets with more money.²⁸ If prices adjust easily and labor moves easily between countries A and B, the problem could be avoided, as workers from country A will move to country B, thus easing both the unemployment problem in country A and the inflationary pressures in country B.²⁹ Alternatively, if countries A and B cannot so easily adjust their prices and labor supply, they could undo the currency peg.³⁰ In that case, country A's currency would depreciate and country B's would appreciate, thus rebalancing exports as between the two.³¹ In addition to this, both countries could use active monetary policy to target their unemployment by expanding money supply, rather than intervening in the markets to maintain a currency peg.³²

The case that the euro area is not an OCA has now been repeatedly made. Even though the entire euro area was subject to the same external shock in 2008, the responses were very different and more importantly, neither prices nor labor supply seem to have adjusted quickly between the different regions of the euro area. If only the unemployed Greeks could quickly move to Germany to relieve Greek unemployment and German inflationary pressures, all would be better. Instead, prices have remained doggedly fixed and labor stubbornly immovable.³³ Moreover, things could perhaps slightly improve if the ECB had a policy mandate broader than price stability (e.g., aimed at unemployment), even though given the dramatically

23. *Id.* at 652.

24. *Id.*

25. *Id.* at 646–47.

26. *Id.* at 646.

27. *Id.*

28. VAN DEN BERG, *supra* note 22, at 646.

29. *Id.* at 646–47.

30. *Id.* at 646.

31. *Id.*

32. *Id.*

33. See Press Release, Hellenic Statistical Auth., Consumer Price Index: January 2012 (Feb. 9, 2012) (on file with author) (noting that while some sectors have experienced downward trends, overall price levels remain well above the 2009 mark with 2009 equaling 100%); Eurostat, *Demography Report 2010*, at 61 Table I.6.3, Eur. Comm'n, (Mar. 2011), available at http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KE-ET-10-001/EN/KE-ET-10-001-EN.PDF (illustrating that Greece, represented by the symbol "EL," experienced net growth due to migration, indicating that labor is moving into Greece instead of to another country, like Germany).

different conditions prevailing in each region of the euro zone, any ECB intervention aimed at average European conditions is bound to be wrong for any region involved.³⁴

So how is this an account that attributes to the euro itself some of the blame for the dire straits peripheral countries have found themselves in? The first thing to note is that this is a theory that instead of singling out individual countries for their failures to stick to the constraints of the Stability and Growth Pact tries to discern the reasons why some countries have been particularly prone to doing so. Indeed, this story very quickly reaches the conclusion that there are systemic, structural pressures at play, which have to do with the fact that the euro area consisted of several highly dissimilar countries such as the imaginary countries A and B of the Mundell example. With a hard currency peg, such as the euro, in place, and with a global shift in demand in favor of Europe's industrial north, peripheral countries had limited options in order to adjust, short of breaking out of the euro and devaluing. They could address their unemployment by shipping off their unemployed to the industrial north, or they could try to force price levels to drop by enforcing a policy of internal devaluation. Indeed, the grinding austerity imposed on Greece's economy as part of the conditionality agreement for the loans Greece received in April 2010 and again in October 2011 is explicitly aiming to achieve an internal devaluation that would help Greece regain competitiveness *vis-à-vis* Germany without the help of currency devaluation.³⁵

In a distinct version of the systemic story, part of Germany's competitive advantage in the global markets and part of the peripheral countries' disadvantage comes from the fact that the euro is devalued by comparison to where the German mark would have been had the EU not included countries such as Greece, Ireland, Spain, and Portugal.³⁶ For these countries the euro is overvalued, thus exacerbating their comparative disadvantage *vis-à-vis* the European core.³⁷ So not only does the European core benefit from being in a monetary union with weaker peripheral economies, but the latter are left without policy tools to deal with the disadvantages that come from being in a monetary union with a much more competitive country. Short of leaving the euro, and given that the ECB's monetary policy is never going to be primarily aimed at dealing with the unemployment that results from the peripheral countries' automatic loss of competitiveness,³⁸ peripheral countries dealing with a loss in competitiveness, as was the case in Greece, have one option left, which

34. Van den Berg quotes an economist as saying that "[s]ince no country is average, you've ensured that every country has the wrong monetary policy all the time." VAN DEN BERG, *supra* note 22, at 645.

35. See *Economic Adjustment Programme*, *supra* note 16, at 42 (noting that in a monetary union, the goal of restoring Greece's external competitiveness must rely on reductions in domestic costs and prices).

36. See, e.g., Kenneth C. Griffin & Anil K. Kashyap, Op-Ed., *To Save the Euro, Leave It*, N.Y. TIMES (June 26, 2012), <http://www.nytimes.com/2012/06/27/opinion/to-save-the-euro-germany-must-leave-it.html> (arguing that if Germany reintroduced the mark, the subsequent devaluation of the euro would allow the other euro zone countries to restructure their economies and restore competitiveness).

37. See Virginie Coudert, Cecile Coubarde & Valerie Mignon, *On Currency Misalignments Within the Euro Area* 17-19 (CEPII, Working Paper No. 2012-07, 2012), available at http://www.euroframe.org/fileadmin/user_upload/euroframe/docs/2012/EUROF12_Coudert_etal.pdf (explaining how peripheral countries experienced higher inflation than the core euro countries).

38. See *Objective of Monetary Policy*, EUR. CENT. BANK, <http://www.ecb.europa.eu/mopo/intro/objective/html/index.en.html#> (last visited Aug. 20, 2012) ("To maintain price stability is the primary objective of the Eurosystem and of the single monetary policy for which it is responsible.").

is to finance the deficits that result from external trade imbalances in the international markets, thus fueling further their current account deficits.³⁹

Actually, in the most structural version of the competitiveness and balance of payments story there is no possible way that all of the countries in the euro zone will maintain trade surpluses with each other. It is a mathematical impossibility and a matter of simple arithmetic that if Germany seeks to become a major exporter of its goods to other euro zone countries, some of these countries will, by necessity, need to have a trade deficit with Germany.⁴⁰ Importing euro zone countries will need to cover their trade deficits by borrowing money in the international financial markets, thus contributing to the debt problem.⁴¹ In different euro zone countries the problem manifested itself in different ways, as in each country a different sector was responsible for the trade imbalance. In Spain there was a real estate bubble financed by cheap credit coming from mostly German banks who were redistributing German surplus in the form of loans.⁴² In Greece, German banks lent money to the government, which then proceeded to allocate it via contract jobs with the government or to the buying of German and French military products, and they also lent to the Greek banking sector, which financed a consumer spending spree (even though Greek household debt remained low relative to the rest of Europe).⁴³

In all versions of the structural story, it was only Greece that arguably already had an important fiscal imbalance before the crisis, with a growing public debt. Every other peripheral country had suffered from the effects of a private credit bubble whose sudden burst in 2008 left European banks undercapitalized. Saving the banks after the bust is what caused the balance sheets of most European countries to

39. See Higgins & Klitgaard, *supra* note 13, at 10 (discussing the limited options available to peripheral countries for financing their debt).

40. The Economist recently illustrated this principle with a soccer metaphor: “Germany, which retained 66% of the possession in last night’s Euro 2012 football match, is wondering why Greece couldn’t just do the same.” *Fallacy Football*, FREE EXCHANGE BLOG: THE ECONOMIST (June 23, 2012, 3:22 PM), <http://www.economist.com/blogs/freeexchange/2012/06/euro-competitiveness>.

41. Higgins & Klitgaard, *supra* note 13, at 2.

42. See Andrew Moravcsik, *Europe After the Crisis: How to Sustain a Common Currency*, 91 FOREIGN AFF. 54, 59 (2012) (“German banks and investors lent their extra cash to southern Europe at historically low interest rates, ignoring the long term risk.”); see also *Spain’s Housing Bubble a Threat to Its Banking Sector*, THE ECON. TIMES (Apr. 30, 2012), http://articles.economictimes.indiatimes.com/2012-04-30/news/31508432_1_spanish-banks-banking-sector-banking-system (discussing Spain’s record amount of borrowing from the ECB, thus increasing its banking sector’s reliance on the entity).

43. See Roxane McMeeken, *Less Healthcare, but Greece Is Still Buying Guns: Greeks Furious at ‘Intact’ Arms Spending as Eurozone Leaders Insist on Cuts to Their Public Services*, THE INDEP. (Nov. 6, 2011), <http://www.independent.co.uk/news/business/analysis-and-features/less-healthcare-but-greece-is-still-buying-guns-6257753.html> (“During the five years up to the end of 2010, Greece purchased more of Germany’s arms exports than any other country Over the same period, Greece was the third-largest customer for France’s military exports”); Jack Ewing, *In Euro Crisis, Fingers Can Point in All Directions*, N.Y. TIMES (Aug. 24, 2012), <http://www.nytimes.com/2012/08/25/business/global/in-euro-crisis-plenty-of-blame-to-go-around.html?pagewanted=all> (“French and German banks[] continued to lend Greece money. At the end of June 2009, just before the debt crisis exploded, Greece owed French banks 76.5 billion euros, or \$96 billion, and German banks 38.6 billion euros, according to the Bank for International Settlements.”); *The World Factbook: Greece*, CIA, <https://www.cia.gov/library/publications/the-world-factbook/geos/gr.html> (last updated Aug. 15, 2012) (“[I]ncreased availability of credit . . . sustained record levels of consumer spending.”); Int’l Monetary Fund, *Global Financial Stability Report*, WORLD ECON. & FIN. SURV., Apr. 2012, at 13, available at <http://www.imf.org/external/pubs/ft/gfsr/2012/01/pdf/text.pdf> (comparing the gross household debt of various countries).

grow dangerously, so that for most of Europe it is accurate to say that this had been a crisis of private debt transforming itself into public debt via bank rescues, not a crisis of profligate public spending.⁴⁴

C. The Role of the Different Narratives in the Solutions Devised (or Not)

I have already noted that the first narrative has some of the main elements of a good fairy tale, which says something about what I think of its credibility. It certainly has some descriptive power (euro zone countries had a legal obligation to stick to the Stability and Growth Pact;⁴⁵ Greece—among others—did not stick to the Stability and Growth Pact;⁴⁶ the rest of the euro zone is at risk of contagion if Greece goes bankrupt or exits the euro; the euro itself might even collapse if Greece exits the euro). But pretending that this descriptive power is at the same time explanatory leads to some misguided solutions.⁴⁷

So which one of these narratives has the EU adopted through this crisis? First, let us take a look at the specific measures devised to deal with the crisis at the EU level. The only legislative measures approved at the EU level have to do with increased enforceability of the Stability and Growth Pact, namely the famous six-pack group of regulations and directives that is meant to put some teeth into the, up until now, punishment-free SGP.⁴⁸ This suggests an underlying understanding of the crisis as essentially a crisis of the sustainability of public finances, which can be corrected as soon as states take appropriate measures to correct their public expenditures. So far, EU institutions have dealt with the crisis as if there were one

44. For the connection between banking crises and sovereign debt crises, see generally Carmen M. Reinhart & Kenneth S. Rogoff, *From Financial Crash to Debt Crisis*, 101 AM. ECON. REV. 1676 (2011).

45. Council Resolution on the Stability and Growth Pact Amsterdam (EC) No. 236/01 of 2 Aug. 1997, 1997 O.J. (C 236).

46. See Heinz-Dieter Wenzel, Jörg Lackenbauer & Klaus J. Brösamle, *Public Debt and the Future of the EU's Stability and Growth Pact 2* (Bamberg Univ. Res. Group on Gov't and Growth, Working Paper No. 50, 2004), available at http://www.uni-bamberg.de/fileadmin/uni/fakultaeten/sowi_lehrstuehle/vwl_finanzwissenschaft/DAAD-Projekt/Publikationen/pberg50.pdf (discussing Greece's continuous breach of the Stability and Growth Pact). Greece was not unique in consistently breaching the Stability and Growth pact. In fact, repeated violations by two key players, Germany and France, and the Council's unwillingness to use the available procedural mechanisms against them led the European Commission in 2005 to conclude that the original SGP framework had been disavowed. See Marco Buti, Directorate-General for Econ. & Fin. Aff., *Will the New Stability and Growth Pact Succeed? An Economic and Political Perspective*, 8–11, *European Economy - Economic Papers* 241 (Jan. 2006) (describing the reform of the SGP).

47. For example, there are those who think that Greece's failure to stick to the SGP is the cause of the crisis, and therefore believe that if we could only make countries stick to the SGP all would be well. See, e.g., Edin Mujagic, *The Euro's Greek Tragedy*, PROJECT SYNDICATE (Dec. 10, 2009), <http://www.project-syndicate.org/print/the-euro-s-greek-tragedy> (noting Greece's routine deviations from the SGP and encouraging fiscal discipline for the future health of the euro zone). Alternatively, others believe that Greece is the problem, and therefore believe that if we could only get Greece to either fix itself or leave the EU all would be well. See David Crossland, *Germans Vexed by 'Stubborn' Greeks and Their Profligate Ways*, THE NAT'L (Nov. 4, 2011), <http://www.thenational.ae/news/world/europe/germans-vexed-by-stubborn-greeks-and-their-profligate-ways> (“The Greeks keep causing us problems. They should have never been let into the euro and it's time they were kicked out.”).

48. See Press Release, European Union, EU Economic Governance “Six-Pack” Enters into Force (Dec. 12, 2011), available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/898> (outlining the “Six-Pack” plan).

bad apple in the EU causing chaos for the rest, because of the interdependency of the euro zone economies and the risk of contagion of market panic in bond markets.

However, this may be a function of the EU's limited competences. Even though euro area countries were already obliged to coordinate their economic policies and were certainly supposed to abide by the SGP, no EU institution had the competence or the firepower needed to deal with a crisis of such immense proportions. The ECB emphatically refused to play the role of lender of last resort, citing its institutional capacity and limited mandate.⁴⁹ The European Financial Stability Facility and the European Stability Mechanism had to be improvised on the spot; both were judged by commentators generally as too little, too late.⁵⁰ In fact, early on in the crisis, Germany insisted on the idea that the Lisbon Treaty's "no bailout" clause⁵¹ meant that the EU was not allowed to provide any kind of assurance to the markets at a moment when Greece's interest rates started to go up.⁵² This expansive interpretation of the clause (no bailout means no loans even if they are still yielding profits for lending countries) predominated in the European discussion and invited speculation by bond investors,⁵³ who then drove Greece's interest rates so high that the country became practically excluded from international financial markets and in need of a loan in order to fulfill its obligations.⁵⁴

Thus, even if one was of the view that not only Greece's problems, but also the euro zone's problems were a function of the southern belt's lax enforcement of fiscal rectitude, some of the necessary steps to avert contagion via the markets to other euro zone countries seemed institutionally unavailable. The general story of the next two years has been one of institutional improvisation that necessarily has to come from the intergovernmental level, and which arrives usually after the fact. At the time of writing this Article, Spain, one of the big elephants in the room that nobody wanted to think about in 2010,⁵⁵ has already been affected and is in the process of negotiating a direct bank recapitalization with the ECB.⁵⁶

49. Note that for some, the ECB violated its institutional capacity and limited mandate through accepting junk Greek bonds as guarantees for liquidity. *E.g.*, Jim Bruntsden, *ECB Agrees to Accept Greek 'Junk' Bonds as Collateral*, EUROPEANVOICE.COM (May 3, 2010), <http://www.europeanvoice.com/article/2010/05/ecb-agrees-to-accept-greek-junk-bonds-as-collateral/67854.aspx>; *see also* Geoffrey R. D. Underhill, *Eurocrisis: We Knew All We Needed to Know . . .*, VOX (Dec. 23, 2010), <http://www.voxeu.org/article/eurozone-crisis-we-knew-all-we-needed-know> ("During the financial phase of the crisis the EU led by the Bank behaved just so, violating its own rules to take on all sorts of dubious collateral from banks.").

50. Vincent Cignarella, *Too Little Too Late For EFSF or Euro-Bonds*, DJ|FX TRADER (Nov. 25, 2011), <http://www.dowjones.com/products/djfxtrader/articles/TooLittleTooLateForEFSFOrEuroBonds.asp>.

51. Lisbon Treaty, *supra* note 9, art. 125.

52. *See* Helen Pidd, *Greek Bailout Challenged in Germany's Constitutional Court*, THE GUARDIAN (July 5, 2011), <http://www.guardian.co.uk/business/2011/jul/05/germany-greek-bailout-legal-challenge-constitutional-court> (illustrating the controversial nature of the Greek bailout in relation to the Lisbon Treaty's "no bailout" clause).

53. *See, e.g.*, Mujagic, *supra* note 47 (recognizing that "[c]urrent European rules prohibit other European countries or the EU itself from helping Greece," but noting that Europe should consider changing the rules for the future health of the euro).

54. URI DADUSH ET AL., CARNEGIE ENDOWMENT FOR INT'L PEACE, *Why Greece Has to Restructure Its Debt*, in PARADIGM LOST: THE EURO IN CRISIS 25, 27 (2010) ("[W]hen markets realized Greece's chronic failure to report accurate statistics. . . . Greece's borrowing costs skyrocketed. Worries mounted that Greece would not be able to repay its loans. . . .").

55. *See* Anthony Faiola, *Debt Crisis Escalates in Europe; Fears Grow About Spain*, WASH. POST

This delay in improvising the institutional solutions needed, however, is not merely a function of the intergovernmental nature of the process. The prevalence of the ants and grasshoppers narrative in the national political scene of surplus countries is one of the main reasons why the European reactions have been so slow—even assuming that one thought all that needs to be done is to contain a contagion. When Greece was excluded from the markets in the spring of 2010, the European countries were so reluctant to undertake a “rescue” package on their own, that an EU/IMF collaboration was devised.⁵⁷ This was despite the fact that one of the main dangers for the rest of Europe was not simply bond market vigilantes, but the very real risk of a full-blown banking crisis following a Greek default.⁵⁸ In fact, a full 86% of the first loan Greece received went into debt service for 2010.⁵⁹ European banks, at the time, were undercapitalized after the 2008 crisis, despite bailout packages they received from European governments.⁶⁰ German, French, and other European banks were holding billions in Greek paper, possibly worth only a fraction of its nominal value.⁶¹ European governments were faced with the very real risk of having to sell their voters another bank rescue plan if Greece were allowed to default on its debt, which is what would have happened if Greece had not received the EU/IMF package in April 2010.

The ants and grasshoppers tale was thus enlisted in the service of avoiding the need to rescue European banks for the second time in two years. It was outrageous,

(Nov. 27, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/26/AR2010112601943.html> (suggesting that investors did not want to imagine the dire situation should Spain require a bailout).

56. *IMF Chief: Strongly Supports ‘Timely’ Spanish Bank Recapitalization*, AUTOMATED TRADER (Sept. 28, 2012), <http://www.automatedtrader.net/real-time-dow-jones/113974/imf-chief-strongly-supports-039timely039-spanish-bank-recapitalization>. In December, the European Stability Mechanism (ESM) approved the Spanish bank recapitalization. John Geddie, *ESM Prints Bonds for Spanish Bank Recap*, REUTERS (Dec. 5, 2012), www.reuters.com/article/2012/12/05/esm-bonds-idUSL5E8N5AWZ20121205.

57. *See, e.g.*, Roubini, *supra* note 7 (arguing that an IMF intervention would be preferable to the provision of guarantees by Germany alone or the EU because IMF conditionality would ensure structural reforms).

58. Bond vigilantes are investors who sell public bonds en masse in reaction to policies they consider unsustainable thus bringing up the yields of public bonds. *See* Cushla Sherlock, *Bond Vigilantes a Factor in Europe but Not in the U.S.*, THE FINANCIALIST (Sept. 19, 2012), <http://www.thefinancialist.com/bond-vigilantes-a-factor-in-europe-but-not-in-the-u-s-edward-yardeni/> (“Thirty years ago, economist Edward Yardeni coined the term ‘bond vigilantes’ to describe investors who seek to sway a country’s fiscal policies by selling off its sovereign bonds.”); *see also*, Steven Erlanger, *Greek Crisis Poses Unwanted Choices for Western Leaders*, N.Y. TIMES (May 20, 2012), <http://www.nytimes.com/2012/05/21/world/europe/greek-crisis-poses-hard-choices-for-western-leaders.html> (giving the example of the possibility of a “full-blown banking crisis in Spain”).

59. *See* HELLENIC REPUBLIC MINISTRY OF FIN., BUDGET OF THE GREEK GOVERNMENT, FISCAL YEAR 2011 165 (2010) (illustrating in Table 8.7 that approximately 32.8 billion euro of the 38.1 billion euro borrowed went into debt servicing in 2010).

60. *See, e.g.*, Jay C. Shambaugh, *The Euro’s Three Crises*, BROOKINGS PAPERS ON ECON. ACTIVITY, Spring 2012 at 7, available at http://www.brookings.edu/~media/Files/Programs/ES/BPEA/2012_spring_bpea_papers/2012_spring_BPEA_shambaugh.pdf (“Euro area banks required a series of bailouts and guarantees and continue to struggle with undercapitalization.”).

61. *See, e.g.*, Robert Samuelson, *Greece and the Welfare State in Ruin*, WASH. POST (Feb. 22, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/02/21/AR2010022102914.html> (“The crisis originated in fears that Greece wouldn’t be able to refinance almost 17 billion euros in bonds (about \$23 billion) maturing this April and May, says the IIF’s Jeffery Anderson. If lenders balked, Greece would default on its bonds. A default would inflict losses on banks and other investors.”).

but true! Lazy Greeks had managed through their profligacy to create a euro-wide danger that European governments were obliged to deal with despite their reluctance. In exchange for saving these lazy, profligate southerners though, they would have to correct their ways and go through a process of purging their sins through pounds of flesh.⁶²

The narrative of ants and grasshoppers continued unabated in the popular press, fueled by statements of European politicians, who were now attributing the failure of the Greek state to meet the loan agreement's fiscal targets to the same laziness and corruption that had brought Greece to its knees in the first place.⁶³ As many economists had warned though the punitive conditionality of the Greek loan agreement would make the fiscal targets hard to meet. The required "internal devaluation," which was applied in the form of a severe tax increase and wage reduction against the salaried, depressed demand and sent the Greek economy into a death spiral that is still ongoing today.⁶⁴ Thus, just as it is becoming clearer that the euro zone will probably only survive the test of bond vigilantes if it moves, at the very least, towards a mutual guarantee of debts through euro bonds or some other such mechanism, the narrative generated and perpetuated by European governments was making this politically impossible.

Understandably so. Think about it: You are a German citizen who has been told that the reason for the mess is southern laziness, in contrast to your own successes of the last decade that can only be attributed to your own thrift. Then you are told that if you want the euro to survive you need to become the guarantor of the debts of the very same profligate countries that caused the crisis in the first place. If you are a German worker whose wages have been kept low in the last ten years in Germany's bid to keep its global competitiveness,⁶⁵ while you hear stories of Greeks retiring at 51,⁶⁶ this adds insult to injury. Why would you accede? You are probably

62. This is why it is the EU this time, and not the IMF, that has been insisting on strict conditionality. The IMF has in fact shown some understanding that too much austerity can cause a downward spiral in the short-term. See Hugo Dixon, *IMF-Euro Conditions Not What They Seem*, REUTERS (Apr. 23, 2012), <http://blogs.reuters.com/hugo-dixon/2012/04/23/imf-euro-conditions-not-what-they-seem/> ("The IMF is actually in some ways calling for less rather than more short-term austerity in the euro zone. So if the Europeans submit to IMF discipline, it will ironically mean less of a hair shirt.").

63. See REBECCA M. NELSON, PAUL BELKIN & DEREK E. MIX, CONG. RESEARCH SERV., R41167, GREECE'S DEBT CRISIS: OVERVIEW, POLICY RESPONSES, AND IMPLICATIONS 11 (2010) ("[M]any [EU countries] are exasperated by the idea of rescuing a member state that, in their perspective, has not exercised budget discipline, has failed to modernize its economy, and allegedly has falsified past financial statistics.").

64. See *id.* at 8–9 (discussing the reforms taken by the Greek government and noting economists' concerns regarding Greece's drastic fiscal reforms); see also Panayiotis Roumeliotis, *IMF Wanted Haircut to Bonds Earlier*, EKATHIMERINI.COM (Oct. 10, 2012), http://www.ekathimerini.com/4dcgi/_w_articles_wsite1_1_10/10/2012_465549 ("The solution that was finally chosen was that of internal devaluation, which is a very difficult endeavor, triggers a drawn-out recession and has succeeded in very few cases, just as the IMF said in its last report on the country [in March 2012]. The same report stresses that the conditions for the success of an internal devaluation are absent in Greece because, among other reasons, the public debt is very high.").

65. See Varoufakis, *supra* note 8 (noting that German exports accelerated because German wages remained low and stagnant).

66. See *Greece's Early Retirement Rules Breed Resentment*, USA TODAY (May 17, 2010), http://www.usatoday.com/money/world/2010-05-18-europeretire18_ST_N.htm (noting that some Greeks retire as early as 50 depending on their profession). In reality, the average retirement age is approximately 61, almost the same as in Germany. SOCIETY AT A GLANCE, *supra* note 10, at 83 tbl. SS6.1.

feeling as if you have been taken hostage by the blackmailing Greeks, who top laziness with ingratitude and hit the streets every other day to protest their own salvation!⁶⁷ If you are a German politician why would you even suggest it? You know that since you have convinced your voters that this is a problem of profligate Greeks, there is no way you are getting reelected if you concede to further integration with the very same people.

The tale of ants and grasshoppers has made the resolution of the crisis even more difficult from the Greek perspective as well. This takes a little more explaining precisely because the narrative naturally gives rise to the question of why any Greek would object to being saved by the generosity of her European partners. To understand why, you need to put yourself in the shoes of the average Greek salaried person. Before the accession to the euro your government had already been enforcing inflation containment measures that kept your wages stagnant.⁶⁸ After the accession to the euro you have seen the cost of living nearly double, while your salary has lagged behind.⁶⁹ You are paying your taxes, because you have no choice contrary to the thousands of Greek professionals and businesses, who regularly engage in tax evasion,⁷⁰ yet you need to pay your health care and your kids' education out of pocket, because a good doctor performs for bribes,⁷¹ and everybody knows that basic public education in Greece has very little value.⁷² You have a state that looks like Sweden on paper but is more like a developing country in reality.⁷³ To keep up with

67. See Crossland, *supra* note 47 (noting Greek protests characterizing Angela Merkel as a Nazi and blaming Germany for the radical cutbacks in Greece, even though Germany was the largest single contributor to the Greek rescue measures).

68. See Sophia Lazaretou, *Greek Monetary Economics in Retrospect: The Adventures of the Drachma*, 34 *ECON. NOTES* 331, 359–61 (2005) (discussing Greece's monetary policy aimed at decelerating the rate of inflation as a response to the relaxation of wage controls, which increased inflation).

69. See Henry Samuel, *Euro Blamed for Rocketing Cost of Living*, *THE TELEGRAPH* (Jan. 1, 2007), <http://www.telegraph.co.uk/news/worldnews/1538304/Euro-blamed-for-rocketing-cost-of-living.html> (noting the public perception that adopting the euro resulted in a painful rise in cost of living in many euro zone countries).

70. See Matsaganis & Flevotomou, *supra* note 14, at 23 (“[E]mployers in 10% of all firms inspected in 2008 failed to pay social contributions, while 27% of all workers remained unregistered Such practices are particularly widespread in retail trade, construction, tourism, contracted-out services such as cleaning and catering and so on.”).

71. Suzanne Daley, *Greek Wealth Is Everywhere but Tax Forms*, *N.Y. TIMES* (May 1, 2010), <http://www.nytimes.com/2010/05/02/world/europe/02evasion.html> (“To get more attentive care in the country's national health system, Greeks routinely pay doctors cash on the side, a practice known as ‘fakelaki,’ Greek for little envelope.”).

72. See *Greek Woes: The Mediterranean Blues*, *ECONOMIST* (Jan. 14, 2012), <http://www.economist.com/node/21542815> (“Since 2008, ever more young people (mostly in their 20s) have gone, often to foreign universities. . . . Greece's archaic education system and strikes have held back those who pursued their education at home. Exams have been delayed or cancelled. Some students are a year or more behind in their studies.”).

73. Greece was never a European welfare state. It is a corrupt cash machine for the insiders, with the outsiders left to fund education, health, housing, and any other services that a welfare state would support on their own. It is a low-productivity economy, based on low wages, family provisioning, and public employment as a substitute for welfare for the one quarter of the workforce who can get such jobs. It bears some similarities with other southern European states, especially in the important role that the family plays in taking care of dependents (including the perennially unemployed well into their mature adulthood). Esping-Andersen, who famously created three ideal types to describe western welfare states, was obliged to add a fourth one later on, to capture the familistic feature of welfare provisioning in many southern European states. See GØSTA ESPING-ANDERSEN, *SOCIAL FOUNDATIONS OF POSTINDUSTRIAL*

your neighbors who have sons and daughters working in the better remunerated public sector, you take out loans for housing, education, as well as consumption, prompted by low interest rates and a loose banking sector lending to everyone. Your cardinal sin is that instead of doing your best to get rid of such a vicious system, you too approach your local politician, crowding to enter his pyramid of clients, in return for your family's vote in the next elections.

In October 2009, the government you have elected on a program of fighting corruption and taxing the rich to redistribute wealth downward announces that the deficit is nearly double what the previous government announced.⁷⁴ It tells you Greece needs to be saved by the EU and the IMF, where saving means that the debt level will go from the 120% thought unsustainable to nearly 160% GDP subsidizing only in ten years' time under very optimistic assumptions about growth (most of which have already been proven wrong).⁷⁵ In return, the Greek government promises to enforce structural reforms, some of which, like tax reform and the fighting of public corruption, sound promising, but mostly, it promises to bring its budget deficit down to Maastricht compliant levels⁷⁶ within three to five years and sell off major public assets. The vast majority of the loan's money is directed at servicing a debt that you know is already unsustainable. The reactions on the street show that the Greek people are divided; yet no one asks you to choose.⁷⁷ You are told this is an exceptional situation needing exceptional measures, no time for electoral processes or consultations.

The government then proceeds to conduct a campaign of tax and wage aggression against the little fish. Not one member of the political class is prosecuted; not a single person is found responsible for the innumerable public procurement scandals in the press that have bloated the public budgets.⁷⁸ Instead, the same people

ECONOMIES 90 (1999) (noting that several authors believe a Mediterranean model should be added and stating that “[t]he acid test of a distinct Mediterranean model depends . . . on the issue of familialism”). See generally GØSTA ESPING-ANDERSEN, *THE THREE WORLDS OF WELFARE CAPITALISM* (1990).

74. See NELSON ET AL., *supra* note 63, at 3 (“In October 2009, the new socialist government, led by Prime Minister George Papandreou, revised the estimate of the government budget deficit for 2009, nearly doubling the existing estimate of 6.7% of GDP to 12.7% of GDP.”).

75. *Outlook for Greece*, ERNST & YOUNG EUROZONE FORECAST, Mar. 2012, at 2, available at [http://www.ey.com/Publication/vwLUAssets/Eurozone_forecast_Spring2012_Greece/\\$FILE/Eurozone_forecast_Spring2012_Greece.pdf](http://www.ey.com/Publication/vwLUAssets/Eurozone_forecast_Spring2012_Greece/$FILE/Eurozone_forecast_Spring2012_Greece.pdf).

76. HELLENIC REPUBLIC MINISTRY OF FIN., HELLENIC NAT'L REFORM PROGRAMME 2011–2014 63 (2011); see also Mich. State Univ., *Greece: Economy*, GLOBALEDGE <http://globaledge.msu.edu/Countries/Greece/economy> (last visited Aug. 24, 2012) (“Specifically, the 3-year reform program includes measures to cut government spending, reduce the size of the public sector, tackle tax evasion, reform the health care and pension systems, and liberalize the labor and product markets.”); INTERNATIONAL BUSINESS PUBLICATIONS, *GREECE: MINERAL, MINING SECTOR INVESTMENT AND BUSINESS GUIDE 23* (2013) (“Greece has committed to reduce its deficit to under 3% of GDP (the ceiling under the EU's Maastricht Treaty) by 2014.”).

77. See Michael Winfrey & Renee Maltezou, *Greeks March to Protest Austerity Campaign*, WASH. POST (June 18, 2011), http://www.washingtonpost.com/world/europe/greeks-march-to-protest-austerity-campaign/2011/06/18/AGXqsdH_story.html (“An opinion poll taken before the reshuffle showed 47.5 percent of respondents wanted Parliament to reject the reform package and for Greece to hold early elections. Just over a third—34.8 percent—wanted it to be approved so that the government could secure the second bailout.”).

78. A former minister of defense who was in charge of various military procurement contracts was recently arrested on money laundering counts. *Former Pasok Minister Tsochatzopoulos Arrested*, ATHENS NEWS (Apr. 11, 2012), <http://www.athensnews.gr/portal/8/54837>. The state has so far been unable

who have built the political system of the last thirty years, who you suspect probably have all their illegitimate assets in Switzerland, are telling you that it is you, the small salaried person who is to blame for all this because you have been enjoying way too many benefits in the last thirty years. You are a lazy grasshopper and our European partners are right to be pointing the finger at you.⁷⁹

The placid and self-serving acquiescence of the Greek political class to a European narrative of average Greek laziness is not the Europeans' fault of course. Except that putting pressure on the Greeks first to accept the loans, instead of defaulting, and then to avoid any process of democratic consultation on such deeply divisive measures, casts a very unflattering light on the EU and the European political class from the perspective of the average Greek. If the EU was so concerned with Greek corruption, why did they entrust the same corrupt political class to enforce such a radically divisive program? Why did they at every turn suggest that the appeal to any type of democratic consultation would mean the end of the world as we know it for Greeks, deepening divisions and provoking a turn to virulent nationalism? Wait, why were Merkel and Sarkozy so outraged when Papandreou proposed to put the second bailout to a referendum?⁸⁰ Why were they celebrating the appointment of Lucas Papademos as the new Prime Minister⁸¹—through constitutionally contested proceedings?⁸² Was he not the central banker when the corrupt Greeks were supposedly cooking their books to enter the euro?⁸³ Why did the EU not even flinch when in July 2011 the Greek parliament voted to

to establish corruption charges even though there is no other explanation for the assets that the minister accumulated during his tenure. *See id.* (“According to the findings of the committee . . . Tsochatzopoulos’ ‘source of income’ declaration did not . . . correspond with assets in his possession.”); *see also* Rachel Donadio & Niki Kitsantonis, *Corruption Case Hits Hard in a Tough Time for Greece*, N.Y. TIMES (May 2, 2012), <http://www.nytimes.com/2012/05/03/world/europe/akis-tsochatzopoulos-corruption-case-hits-hard-in-greece.html> (discussing the desire within Greece for corruption to be curbed and offenders prosecuted).

79. Theodoros Pangalos, a politician with considerable influence during the last thirty years, and the Vice President of the Papandreou government in 2009, famously proclaimed that “[w]e [Greeks] ate the money together,” provoking the immediate ire of the average Greek. *See, e.g.*, Tony Barber, *Greece Plays the Ethical Blame Game*, FIN. TIMES (June 21, 2011), <http://www.ft.com/intl/cms/s/0/42d88b20-9c1f-11e0-acbc-00144feabdc0.html> (stating that Greeks have “[p]articular contempt” for Pangalos and describing a banner in Syntagma that vowed to “make salami” out of him).

80. *Greece’s Woes: The Markets Are Not the Euro’s Only Threat. Voters May Be Too*, ECONOMIST (Nov. 5, 2011), <http://www.economist.com/node/21536597>.

81. *See* Larry Elliott, *The Emergence of the Frankfurt Group Has Turned Back the Democratic Clock*, THE GUARDIAN: ECON. BLOG, (Nov. 8, 2011, 10:22 AM), <http://www.guardian.co.uk/business/economics-blog/2011/nov/08/euro-papandreou-berlusconi-bailout-debt> (“Angela Merkel and Nicolas Sarkozy think Papademos is the sort of hard-line technocrat with whom they can do business.”).

82. *See Greece’s Politicians: In Their Own Time*, ECONOMIST (Nov. 10, 2011), <http://www.economist.com/blogs/newsbook/2011/11/greeces-politicians> (referencing a statement by Alexis Tsipras, the leader of the SYRIZA party, that “[The appointment of Lucas Papademos] is a degeneration of democracy, a manipulation of the Constitution, and a ridicule of our Parliament”).

83. *See* Elliot, *supra* note 82 (noting the contention within the European Union between democratic processes and the “Frankfurt Group,” which seems to make the “real decisions in Europe”); *see also* Damien McElroy, *Money Matters: Greece Banks on Country’s Euro Architect to Save It from Economic Meltdown*, SYDNEY MORNING HERALD (Nov. 12, 2011), <http://www.smh.com.au/world/money-matters-greece-banks-on-countrys-euro-architect-to-save-it-from-economic-meltdown-20111111-1nbqg.html> (“[T]here was an angry reaction on the streets to the choice of Mr [sic] Papademos, who was one of the key players in Greece’s entry into the euro zone a decade ago, a process allegedly underpinned by statistical fraud about the real state of the country’s economy.”).

accept a second bailout,⁸⁴ despite the fact that the vast majority polled said they were against it, and those gathered outside the Parliament to protest were violently tear gassed and clobbered by the police?⁸⁵

A structural understanding of the crisis suggests structural solutions, such as a fiscal and political union, or euro bonds and mutual-sharing of debts at the very least. The prevalence of the morality narrative in the context of national politics is a huge obstacle to the resolution of the current crisis because it makes extremely difficult the justification and adoption of the measures that are needed in the national political scenes of the member states. At the moment of this writing, German politicians whose electorate needs to accept Germany's further integration with other member states if the euro is to survive, have continued to propagate the morality tale,⁸⁶ thus heightening the chances that further integration might be rejected, especially after Greece's voters—the *par excellence* grasshoppers—decided to give the euro another chance in the June 17 elections.⁸⁷ As the situation stands, the best chance for euro area states to move towards the closer union that they need in order for the monetary aspects to work is still for Greece to exit. Only then can the politicians of the northern member states use the danger created at the moment of exit and the symbolic power (sacrifice of the guilty) to create a banking and perhaps even a fiscal union with the rest.⁸⁸

II. DO GRASSHOPPERS NEED SPECIAL TREATMENT?: CONSIDERING THE FUTURE OF (SOCIAL) EUROPE

In this part of my Article, I would like to concentrate on the Commission's descriptions of the Greek loans and their conditionality, because I believe they are significant for more than the immediate economic future of Greece; they are significant for the future of social policy at the EU level. Contrary to the morality narrative, the Commission employs a discourse largely sympathetic to Greek citizens. The solutions it prescribes for Greece are of a structural sort, and they stem from its view that the Greek state, as opposed to its citizens, is guilty of profligacy and inefficiency. The type of structural solution envisioned, however, is akin to the standard IMF recipes of previous debt crises. This has important implications for the

84. See *Eurozone Group Backs Second Greek Bailout*, BBC NEWS (Mar. 12, 2012), <http://www.bbc.co.uk/news/business-17338100> (discussing the support from euro zone finance ministers for the second bailout).

85. Roland Gribben & Louise Armistead, *Greece Passes Crucial Bailout Vote as Country Burns*, TELEGRAPH (Feb. 13, 2012), <http://www.telegraph.co.uk/finance/financialcrisis/9078221/Greece-passes-crucial-bailout-vote-as-country-burns.html>.

86. See Crossland, *supra* note 47 (describing the popular German belief that Greece is to blame for the crisis); see also Kabir Chibber, *What Is Germany's Vision for Europe?*, BBC NEWS (Dec. 7, 2011), <http://www.bbc.co.uk/news/business-16030374> (noting Germany's vision for structural reforms and how it is a "morality play" for Germany) (quoting Martin Van Vilet, senior economist at ING Bank in Amsterdam).

87. Rachel Donadio, *Supporters of Bailout Claim Victory in Greek Election*, N.Y. TIMES (June 17, 2012), <http://www.nytimes.com/2012/06/18/world/europe/greek-elections.html?pagewanted=all>.

88. See Simon Tilford, Op-Ed., *Ousting Greece Will Not Bring Catharsis*, N.Y. TIMES (June 5, 2012), <http://www.nytimes.com/2012/06/06/opinion/ousting-greece-will-not-bring-catharsis.html> (arguing that Greece's exit would not be a solution in itself, but it could potentially provide the needed "political space" that German authorities need in order to bring in institutional reforms).

type of social provisioning that the Commission sees as required by the nature of the EU project as a “social market” economy.⁸⁹ On this point, the Commission’s discourse is largely continuous with language on structural reforms and social policy that the Commission has been developing in the context of social policy coordination. To illustrate, it is necessary to examine the structural reforms envisioned in the loan agreements as described by the Commission and their assumed relationship to the goal of achieving social cohesion. What emerges from this examination, I believe, is a solidification of the Commission’s discourse on social cohesion in a direction that will not thrill social progressives, as it further collapses the goals of social cohesion with the goal of dynamic growth through markets.

The structural stories of the crisis suggest that in a monetary union where labor and prices adjust slowly or not at all, and the central bank lacks the capacity to adjust its monetary policy in response to crises, a depression of wages and prices in the less competitive regions is the only remaining way to provoke an adjustment. This is the famous “internal devaluation,” which partly dictates the logic of the measures that have been adopted as part of the conditionality for Greece’s loan agreements with the EU and IMF.⁹⁰ Greece, the *par excellence* sinner in the grasshopper story, has undertaken to return to Maastricht compliant budget deficit levels by 2014, and has already succeeded in reducing the budget deficit by more than six percentage points in two years, the biggest fiscal adjustment in a western nation in recent years.⁹¹ The consequent contraction into which this austerity policy has thrown the economy—not to mention the political and social turmoil—has meant a vicious cycle in which Greece fails to meet subsequent budgetary targets, and the EU and IMF respond by demanding that more be done before any more money can be released.⁹²

More specifically, what is demanded of Greece through the conditionality of these agreements can be described as nothing less than a complete reinvention of the Greek state.⁹³ The Commission itself has recently stated, “The reforms agreed under

89. *Communication from the Commission, Europe 2020, A Strategy for Smart, Sustainable and Inclusive Growth*, at 10, COM (2010) 2020 final (Mar. 3, 2010) [hereinafter *Communication on Europe 2020*].

90. The Commission itself explains internal devaluation in the following way:

Greece has to restore competitiveness through an ambitious internal devaluation, *i.e.*, a reduction in prices and production costs relative to its competitors, as well as a shift from a consumption-led to an export-led economy. Since a strong increase in productivity takes time, an upfront reduction in nominal wage and non-wage costs is necessary. This is unavoidable, but it complicates fiscal adjustment through the impact that the internal devaluation has on nominal GDP and, concomitantly, on tax bases. Moreover, when recovery takes hold, the composition of growth is expected to be less tax-rich than in previous upswings.

Directorate-General for Econ. & Fin. Aff., *The Second Economic Adjustment Programme for Greece*, 2, Occasional Papers 94 (Mar. 2012) [hereinafter *Second Economic Adjustment Programme*].

91. *Id.* at 1–2.

92. This downward spiral was predicted by many economists early on in the crisis. *See, e.g.*, Feldstein, *supra* note 19 (“There simply is no way around the arithmetic implied by the scale of deficit reduction and the accompanying economic decline: Greece’s default on its debt is inevitable.”); Charles Wyplosz, *And Now? A Dark Scenario*, VOX (May 3, 2010), <http://www.voxeu.org/article/greek-package-eurozone-rescue-or-seeds-unravelling-monetary-union> (“The drop in public spending . . . will provoke a profound recession that will deepen the deficit. This, along with the social and political impact of the crisis, will undoubtedly prevent the Greek government from delivering on its commitments.”).

93. Greece has signed two loan agreements with the member states and the IMF, each of which comes with a Memorandum of Understanding that includes specific conditions for the disbursement of the

the Second Economic Adjustment Programme seek to create a more equitable society.”⁹⁴ The conditionality of the agreements aims at an almost complete overhaul of the Greek public administration and an attempt to reinvent it through the provision of technical assistance by the other EU member states.⁹⁵ To those familiar with the structural conditionality of IMF loans, the Greek program will sound familiar, except for its particularly condensed timetable dictated more by the perceived necessity to bring down sovereign bond rates than by any idea related to the feasibility of the program. In fact, the timetable provided for the various reforms can be modestly characterized as thoroughly unrealistic.⁹⁶

Any Greek citizen would welcome many of the required reforms, especially those reforms concerning the tax administration and increasing the efficiency of the state’s operations.⁹⁷ However, starting in 2010, the only “reforms” that the politically battered Greek government was capable of enforcing had to do with a campaign of tax increases against the salaried middle class, which was already a captive tax audience.⁹⁸ Because Greece never had a properly functioning system of public welfare provision, but instead used the diffuse, client-based distribution of public sector jobs and pensions to deal with unemployment and poverty, the fiscal adjustment required of Greece translated into a direct blow to Greek families’

loans. The list of reforms is long; it includes almost the entire structure of public administration, including health and social security, employment, the justice system, labor law, and taxation. The loan agreements also provide for the extensive privatization of public assets such as the electricity and water grids. *Second Economic Adjustment Programme*, *supra* note 90, at 123–72.

94. *Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank: Growth for Greece*, at 4, COM (2012) 183 final (Apr. 18, 2012) [hereinafter *Growth for Greece*], available at http://ec.europa.eu/economy_finance/articles/financial_operations/pdf/2012-04-18-greece-comm_en.pdf.

95. The Commission set up a special Taskforce for Greece in July 2011 for the purpose of providing technical expertise. The Commission describes the Taskforce’s goals as follows:

The Taskforce is already working closely with Greek authorities to identify needs, and mobilise expertise from other Member States and international organisations in the areas of structural fund absorption, tax administration/public financial management, including the fight against fraud, smuggling and corruption, the reform of the public administration, business environment, judicial reform and healthcare reform. Many Member States are playing their part in making leading specialists available to advise the Greek authorities.

Id. at 16. The Taskforce acquired a permanent presence in Greece beginning in February 2012. *Second Economic Adjustment Programme*, *supra* note 90, at 6.

96. See Wyplosz, *supra* note 92 (arguing that the plan for Greece’s recovery is unreasonable and will fail).

97. Others, like the promoted labor law reform, seem like an unwarranted intervention in internal politics, especially since the cost of labor in Greek private markets was already low. See Matthew Boesler, *The Entire World Will Once Again Be Watching an Insanely Close Greek Parliament Vote That Could Have Huge Ramifications*, BUS. INSIDER (Nov. 2, 2012), <http://www.businessinsider.com/greek-labor-reform-vote-preview-2012-11> (“The Court of Auditors, which vets Greek laws before they are submitted to parliament, said planned measures could be against constitutional provisions including the ‘principles of individual dignity and equality before the law.’”) (quoting Deutsche bank strategist Jim Reid). The so-called rigidity in labor regulation seems ideological rather than descriptive because the market is characterized by widespread de facto flexibility already. TSIPOURI ET AL., *supra* note 13, at 2; Tsoukala, *supra* note 16.

98. In its review of Greece’s Second Economic Adjustment Programme, the Commission notes that the fiscal measures adopted in early 2012 were the first since 2010 not accompanied by a tax increase. *Second Economic Adjustment Programme*, *supra* note 90, at 2.

traditional capacity to contain poverty.⁹⁹ Pensioners have suffered deep horizontal cuts, while both public and private sector wages have also been dramatically reduced.¹⁰⁰ As fiscal contraction led into depression, hundreds of thousands of small Greek family businesses, the backbone of the Greek economy, have closed. Poverty has skyrocketed, and it has become increasingly difficult for Greek families with several dependent members to make ends meet. In the several community kitchens that have sprung up in the center of Athens, one can see previously middle class Greek pensioners lining up for their food so that they can save some euros to pass onto their unemployed adult children, who do not have dependable rights to housing, child-care, or health benefits.¹⁰¹ There are repeated reports that the suicide rate in Greece, once amongst the lowest in Europe, has spiked in the last two years.¹⁰² Finally, thousands of illegal immigrants still swarming to—or just trapped in—Greece have faced an increasingly hostile and racist Greek population, which has recently elected eighteen members of Parliament from the extreme right-wing party of “Golden Dawn.”¹⁰³

The situation in Greece gives pause to anyone concerned with the future of the social-Europe agenda incorporated in the Europe 2020 program post-Lisbon Treaty. How can a Europe that is aspiring to significantly reduce poverty by the year 2020 adopt measures that are throwing thousands of Greeks into poverty?¹⁰⁴ One way to square the circle might be to argue, for example, that for the sake of expediency the goal of assuring social cohesion or a reduction in poverty has been temporarily suspended, while the countries receiving loans from the EU and IMF deal with their emergency budget situations. This would be an opportune moment for the

99. Regardless of the particularly corrosive and corrupt way in which Greece distributed public sector jobs, the distribution of such jobs and the state's borrowing to cover that cost is a typical response when a state lacks monetary tools to deal with rising unemployment. In the words of Van den Berg, “The problem was the single currency: a permanently fixed exchange rate limits a country's response to high unemployment to fiscal stimulus. But, as Greece found out, if government debt grows too large, further borrowing is no longer possible. In this case, the government is left with no macro-economic policy with which to increase employment.” VAN DEN BERG, *supra* note 22, at 664.

100. See Elliott & Aitkenhead, *supra* note 15 (“Greece . . . has been told to cut wages, pensions and public spending in return for financial help from the IMF”).

101. Larry Elliott, *Troubled Greece: Fears of ‘First Domino’ to Fall as Austerity Is Counted a Failure*, THE GUARDIAN (May 31, 2012), <http://www.guardian.co.uk/world/2012/may/31/greece-austerity-failure-syriza-bailout>.

102. Niki Kitsantonis, *Greece: Man Dies After Fall from Acropolis*, N.Y. TIMES (June 28, 2012), <http://www.nytimes.com/2012/06/29/world/europe/greece-man-dies-after-fall-from-acropolis.html>.

103. Associated Press, *Golden Dawn, Greek Far Right Party, Returns To Parliament*, HUFFINGTON POST (June 17, 2012), http://www.huffingtonpost.com/2012/06/17/golden-dawn-election-results_n_1604097.html.

104. The Europe 2020 program has set specific targets for poverty reduction for Europe overall and individual Member States. The European target is to reduce the number of people at risk of poverty by at least 20 million by the year 2020. *Europe 2020 Targets*, EUR. COMM'N, http://ec.europa.eu/europe2020/pdf/targets_en.pdf (last visited Sept. 10, 2012). The specific national goal for Greece is to reduce the population at risk of poverty by at least 450,000. *Id.* In the meantime, the continuing downward spiral of the Greek economy, produced in large part because of the application of fiscal consolidation measures, has produced a skyrocketing of unemployment to 22% (more than 50% for the youth). *Greek Unemployment Hits New Record of 22.5 Pct in April*, REUTERS (July 12, 2012), <http://uk.reuters.com/article/2012/07/12/uk-greece-unemployment-idUKBRE86B0IB20120712>. According to Eurostat data, 27.7% of Greeks are living with the risk of poverty and social exclusion. *More Than a Quarter of Greeks at Risk of Poverty*, EKATHIMERINI.COM (Feb. 8, 2012), http://www.ekathimerini.com/4dcgi/_w_articles_wsite1_1_08/02/2012_426805.

deployment of the morality tale too: Greece is a special case because its citizens are guilty of causing the crisis; hence the exceptional measures that we do not expect will apply to anyone else.

Notably, this is not the understanding of the reforms the Commission is promoting and I believe this is an important moment for the EU as a whole. While the Commission readily recognizes that the structural adjustment demanded of Greece by the conditions of the two loan agreements has hit the weakest Greeks worst of all, the Commission understands the very design of the program is to respond to the deep demands of any European society for social equity.¹⁰⁵ Its posture is one of sympathy with the Greek citizens who were already suffering from a corrupt and inefficient state, but also of complete intolerance for the Greeks' state structures. It is worth quoting the Commission at some length to get a sense of this perspective:

The full and timely implementation of the Second Economic Adjustment Programme must be the top priority for Greece. The reform measures it contains are designed to restore the growth and job creating potential of the Greek economy and to do away with the value-destroying rules and opportunities for corruption and bureaucracy that prevent Greek citizens and businesses from engaging in productive activities. Currently, over-regulation and a poorly performing public administration create inefficiency and too many cases of rent-seeking behaviour.

The removal of the most blatant obstacles to growth can significantly improve the situation of citizens and companies in a relatively short time-frame. In the medium term, more profound reforms of the Greek public administration and justice system are required to ensure faster, more efficient procedures, a substantially more effective and equitable tax collection system, less red tape and more legal certainty for investment and new business activities.

The reforms agreed under the Second Economic Adjustment Programme seek to create a more equitable society—where all segments of the population bear a fair share of the burden of adjustment and will all enjoy the benefits of reform. The impact of the severe imbalances that have built up in the Greek economy has hit the less well-off particularly hard, making the need for reform even more pressing. Vested interests, both inside and outside the public administration, which have exploited their position in an opaque and bureaucratic system which lends itself to corruption, should no longer be tolerated. However, the whole population will benefit from these changes and deserve better governance.¹⁰⁶

In the same communication, the Commission describes the two loan agreements as “massive financial aid” to Greece and openly compares them to the Marshall plan—despite the fact that the Marshall plan consisted of transfers and not profitable

105. *Growth for Greece*, *supra* note 94, at 20.

106. *Id.* at 4.

loans.¹⁰⁷ It insists that social equity has always been part of the design of the loan agreements:

Social equity has always featured strongly in the design of the programmes. This is reflected in reforms of pensions, other social programmes, labour market, and health care and in the fight against tax evasion, where particular efforts have been made to protect the most vulnerable parts of the population.

The programme is designed to ensure debt sustainability and to build a new Greek economy. The goal is to help Greece regain competitiveness in the coming years and to respond quickly to the unacceptably high levels of unemployment by cutting labour costs from the current unsustainable levels and creating a more modern, flexible labour market. Product and service markets will also be overhauled so as to increase competition and price flexibility and to help ensure that lower costs feed through into higher economic growth to the benefit of all. The programme will also transform the business environment, improving framework conditions for entrepreneurship and innovative projects, a prerequisite for the future dynamism of the Greek economy.¹⁰⁸

This excerpt highlights an underlying understanding about the meaning of social equity. The reforms in “pensions, other social programmes, labour market, and health care and . . . against tax evasion” required by the loan agreements are themselves part of the program to reduce poverty because they will allegedly help the Greek economy regain its competitiveness.¹⁰⁹ This understanding of a poverty reduction strategy is repeated in the Commission’s later proposal for a Council recommendation on Greece’s 2012 national reform program:

The economic crisis and subsequent fiscal consolidation measures have had an impact on the ability of Greece to achieve the Europe 2020 goals, especially the socially oriented ones. Nevertheless, the structural reforms, particularly those in the labour market, the liberalisation of several sectors and a number of measures to improve the business environment, will help promote competition, spur productivity, increase employment and reduce production costs, thus contributing to an increase in employment and limiting poverty and social exclusion in the medium term.¹¹⁰

Thus, the loan agreements are “financial aid” and the harsh conditionality of the loans are poverty reducing structural reforms as per the Commission.¹¹¹ It is

107. *Id.* at 2, 19. The loans to Greece have an interest rate that is much lower than what Greece would be able to get in the markets but that is still higher than what Germany borrows the money for in the markets.

108. *Id.* at 20.

109. *Id.*

110. *Recommendation for a Council Recommendation on Greece’s 2012 National Reform Programme*, para. 13, COM (2012) 307 final (May 30, 2012), available at http://ec.europa.eu/europe2020/pdf/nd/csr2012_greece_en.pdf.

111. Debt repayment is one of the main goals of the loan agreements, which contain various clauses tying Greece’s hands and limiting its options for default. The second loan agreement contains a clause

worth noting that this is far from the notions of solidarity coming from the traditions of European welfare states. But I would argue that it fits comfortably with the type of understanding the Commission has been developing over the last several years on the question of poverty reduction based on the results of the Open Method of Coordination (OMC) on social policy, the revised Lisbon Agenda, and finally, the Europe 2020 initiative.¹¹²

The OMC is a so-called “soft law” mode of governance that entails mutual learning through standard setting, benchmarking and repeated iterations of feedback.¹¹³ In its initial phases, the OMC was conceptualized as an alternative form of governance, one that could theoretically allow common standards on social policy to emerge not from a top-down legislative process, but through mutual consultation and learning between various stakeholders in the member states. It has been used in many areas of non-exclusive EU competence, where undertaking legislative action in the mode of regulations, directives, or decisions is not possible (because of the lack of competence) or desirable (because of the lack of unanimous political will required). The OMC was reformulated in 2005 in the so-called revised Lisbon agenda.¹¹⁴ This revision was criticized by progressive NGOs and scholars as subordinating the social-protection aspect of the OMC to economic considerations of efficiency and sustainability.¹¹⁵ Portions of the revised Lisbon agenda were finally incorporated into the Europe 2020 program. The Europe 2020 language draws from the revised Lisbon agenda and could be equally criticized for embodying this limited notion of social solidarity via structural reforms.¹¹⁶

that provides that any surplus Greece makes will be directed towards repayment of the loans. In fact, a special account has been opened into which the loan to Greece can be deposited so that it can be directly applied towards debt repayment. Greece also undertook to pursue extensive privatizations. To that end, it has created a “special purpose vehicle,” into which assets worth 50 billion, including energy, water, land, and mines, are to be irrevocably transferred by the Greek state. The proceeds from privatizations are to be exclusively directed towards debt repayment. *Vision*, HELLENIC REPUBLIC ASSET DEV. FUND, <http://www.hrdf.com/en/the-fund/vision> (last visited July 18, 2012); Directorate-General for Econ. & Fin. Aff., *The Economic Adjustment Programme for Greece: Fourth Review—Spring 2011*, 80, Occasional Papers 82 (July 2011).

112. See generally Caroline de la Porte & Philippe Pochet, *Why and How (Still) Study the Open Method of Co-ordination (OMC)?*, 22 J. EUR. SOC. POL'Y 336 (2012) (engaging in a good overview of the Open Method of Coordination). Beginning in 2000, the Lisbon Agenda was an attempt to make the European economy “the most competitive knowledge-based economy in the world” and to improve EU governance. David Natali, *The Lisbon Strategy, Europe 2020 and the Crisis in Between*, OSE DELIVERABLE, May 31, 2010, at 4. Europe 2020 is a European initiative that attempts to integrate fiscal governance and the coordination of social policy at the European level. *Communication on Europe 2020*, *supra* note 90, at 5 (stating that Europe 2020 is a strategy to “turn the EU into a smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion”).

113. Linda Basile, *Participation in the Open Method of Coordination: The Case of the European Employment Strategy 2–4* (Jean Monnet Working Papers in Comparative and Int'l Politics, Paper No. 63, 2008), available at <http://www.fscpo.unict.it/EuroMed/jmwp63.pdf>.

114. *Id.* at 11.

115. KENNETH A. ARMSTRONG, GOVERNING SOCIAL INCLUSION: EUROPEANIZATION THROUGH POLICY COORDINATION 105–14 (2010).

116. In the 2010 Communication on Europe 2020, for example, the Commission’s description of the “European Platform Against Poverty” highlights the Commission’s understanding of the EU level as mainly concerned with increasing employment opportunities in national economies, eliciting public and private commitment to reducing poverty, providing funding for re-training, and providing an assessment of the “adequacy and sustainability” of pension systems while member states are urged to “fully deploy their social security and pension systems to ensure adequate income support and access to health care.”

The argument here is that far from seeing the case of Greece as a moment of suspension of social concerns for the sake of fiscal considerations, the Commission repeatedly articulates the conditionality of the loan agreements as part and parcel with the project of creating a more equitable society in Greece,¹¹⁷ and I would suggest, as part and parcel with the project of constructing a new, EU-based understanding of what the European social model should become. This conception is quite notable, since the conditionality of the loan agreements calls for deep structural reforms and extensive privatizations. It seems to indicate that the Commission has embraced an understanding of social cohesion that primarily rests on structural reforms and employability as the main tools for poverty reduction, while optimizing (without expanding) whatever systems of social protection are already in place.¹¹⁸

The crisis and the language the Commission is using to describe its social effects may represent yet another moment of retrenchment for those who wished to see more independence between social protection and the economic goals represented by the active labor-policy piece of the Lisbon agenda. But the reality is that the language developed thus far in the context of the OMC comfortably fits with a process of fiscal consolidation without much need for adapting the discourse to recognize the exceptional nature of the measures adopted.

The continuity and comfortable fit between the language ensuing from the OMC on social policy, and the language of structural reforms as a remedy to ailing economies is particularly striking in the context of pension reforms. Member states had already agreed to ensure that pension schemes are adequate and sustainable.¹¹⁹ Notably, the OMC process on pensions formulated the goal of equity both within and between generations, so that when the Commission talks about the adequacy of pensions it is also speaking to the adequacy of pensions for future generations, which obviously includes the limiting of pension rights for current generations. Member states agreed to aim for the prolongation of working lives by extending the retirement age and equalizing it between men and women, and promoting “active ageing.”¹²⁰ The pension reforms demanded of Greece, in the context of its Memoranda of Understanding (MoU) with the EU and IMF, were therefore in line with the type of “modernization” the EU itself was envisioning for all member states

Communication on Europe 2020, *supra* note 89, at 19.

117. See *Growth for Greece*, *supra* note 94, at 2 (“A crisis of such magnitude calls for far-reaching changes in Greece so that a new, dynamic, competitive Greek economy can emerge, one that is capable of generating sustainable growth, creating jobs, supporting social cohesion and delivering on the expectations of Greek citizens.”).

118. Note that in the case of the countries that could be described as “Mediterranean” in their mode of social provisioning, like Greece, the structural adjustment and fiscal consolidation measures provided for by the loan agreements are applied against the background of minimal state provisioning and directly affect the main mechanism of welfare provisioning, which is the family. See ESPING-ANDERSEN, *SOCIAL FOUNDATIONS*, *supra* note 73, at 90 (noting that “Mediterranean” countries focus on families for welfare provisioning because “it is assumed (and legally prescribed) that families are the relevant locus of social aid; and it is assumed that families normally do not ‘fail’”).

119. GRP. CONSULTATIF ACTUARIEL EUR., *SUSTAINABILITY OF PENSIONS SYSTEMS IN EUROPE—THE DEMOGRAPHIC CHALLENGE* Appendix 3 (2012), available at http://www.gcactuaries.org/documents/Sustainability_pension_system_%20final_020712%20270612_web.pdf.

120. *Commission Staff Working Document Ex-Ante Evaluation Accompanying Document to the Decision of the European Parliament and of the Council on the European Year for Active Ageing (2012)*, at 3, SEC (2010) 1002 final (June 9, 2010), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2010:1002:FIN:EN:PDF>.

even before the crisis broke out.¹²¹ It is characteristic that, in its 2012 White Paper on Pensions, the Commission seamlessly includes the reforms undertaken by the MoU with the reforms that the rest of the member states have committed to pursuing.¹²²

Despite appearances, this specific understanding of solidarity is not simply a function of the EU's limited competences on social policy. In other words, the Commission's attitude toward the effects of the loan conditionality on the Greek safety net is not simply the result of a hands-off approach inspired by its own understanding of limited competence. It entails a positive vision of how social provisioning should be done in member states, and that is mainly through the markets, via employment, with safety nets playing a residual and minimal role, which does not burden the state unduly.¹²³ Formally, the crisis does not mark any changes in the legislative competence of the EU in regards to social policy, but the social policy "mainstreaming" that was envisioned in the Europe 2020 program seems to be in full swing at this moment of crisis.¹²⁴ If anything, the integration of reporting on the Europe 2020 goals—some of which have to do with social cohesion—into the European Semester—which is about fiscal coordination—has created higher visibility for the social cohesion language at the European level. I would argue that it is making the EU governance level look increasingly more like a national government concerned with every aspect of a particular crisis rather than the group of effects that fall directly into its zone of competence.

Finally, despite the continuing lack of formal exclusive competence on social policy, the substance of the measures required by the MoU is such that in reality they are dictating social policy to the finest detail for the countries subjected to them under the guise of fiscal emergency. This includes labor law, pensions, wages, and—in the particular case of Greece—every possible aspect of the safety net.

What does this collapse of the distinction between fiscal goals and social policy mean for the rest of the member states and more importantly, for the future of social policy at the EU level? Though it remains to be seen, it does not bode well for the future of social Europe.

CONCLUSION

At the moment of this writing, European politicians continue to propagate the morality tale of the crisis despite all evidence to the contrary. This means that the future of the euro zone is up for grabs as the morality tale itself creates hurdles for the adoption of the structural solutions that are needed. Assuming that the euro

121. For an account of the process of modernization in pension policies preceding the crisis, see generally DAVID NATALI, PENSIONS IN EUROPE, EUROPEAN PENSIONS: THE EVOLUTION OF PENSION POLICY AT NATIONAL AND SUPRANATIONAL LEVEL (2008).

122. *White Paper: An Agenda for Adequate Safe and Sustainable Pensions*, at 23–40, COM (2012) 55 final (Feb. 16, 2012), available at <http://ec.europa.eu/social/BlobServlet?docId=7341&langId=en>.

123. *E.g.*, *Communication on Europe 2020*, *supra* note 89, at 17–19.

124. Mainstreaming is a governance technique commonly used in the European Union. It requires incorporating analyses of the consequences of any program on a specific area of concern. So far, the European Union had famously "mainstreamed" gender and environmental analyses in all of its actions, so that for any proposed program or legislative action there has to be an analysis of its potential consequences. Europe 2020 requires the mainstreaming of social policy in the same way. Natali, *supra* note 112, at 19.

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zone survives, there are very interesting questions about the particular political direction its policies will take. More specifically, throughout the crisis, the Commission has promoted a discourse that characterizes the EU level as a government concerned with all aspects of the crisis, economic and social, despite an apparent lack of legislative capacity on the latter. The Commission's discourse on the social piece, however, evinces elements of continuity with an understanding of social protection that rests on employability and the active labor policies, which scholars have criticized as weak by comparison to many national welfare contexts. The crisis seems to consolidate the more conservative version of the OMC on social policy through various iterations of the social Europe idea in the fiscal governance documents published by the Commission. Social Europe as a concept is likely to survive if the EU itself does, but it is not certain that social progressives will be thrilled about the development of its contents.