WHICH NATIONS GET LET OFF THEIR DEBTS, AND WHY

Greece: pay now, live later

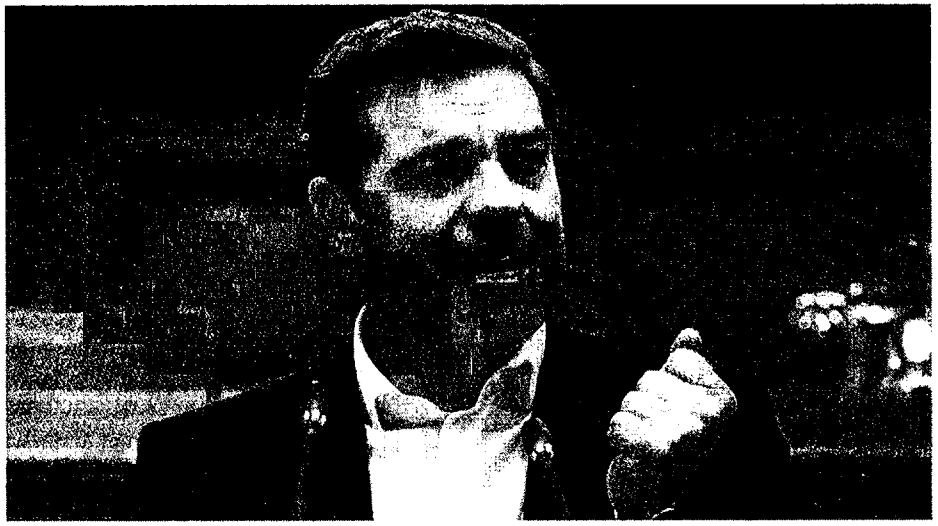
There are many precedents for restructuring, if not cancelling, Greece's international debt; but the moderately leftwards tone of the new Greek government scares the creditors

BY RENAUD LAMBERT

It was once easy for states to free themselves of the burden of debt. French kings could improve their finances by executing their creditors – a primitive but widespread form of debt restructuring (1). International law deprived debtors of this option, and worsened matters by imposing the principle of continuity of obligation. Lawyers use the Latin phrase *pacta sunt servanda* (agreements must be kept), which has recently been expressed, variously, in moralistic terms, "Greece has an ethical duty to repay its debt" (France's Front National); in school playground terms, "Greece has to pay; that's the rule" (Benoît Cœuré, member of the executive board of the European Central Bank); and regardless of popular sentiment, "Elections change nothing" (Wolfgang Schäuble, German finance minister) (2).

Greece's debt is nearly €320bn ($364bn); since 2009, it has risen by 50% relative to Greece's wealth creation. According to the *Financial Times*, "to service its debt burden would require Greece to operate as a quasi slave economy." But the rule won't bend to accommodate the arithmetic. "A debt is a debt," said Christine Lagarde, director of the International Monetary Fund. It doesn't matter whether Greece can pay or not – it *must* pay.

The *pacta sunt servanda* doctrine is not immutable (3). A UN Conference on Trade and Development (UNCTAD) discussion paper says: "The international law obligation to repay debt has never been accepted as absolute, and has been frequently limited or qualified" (4). There are legal arguments to justify suspension of repayment, or even the cancellation of all or part of a country's debt: debts have been described as "odious" (contracted by a dictatorial regime) (5), "illegitimate" (contracted without regard for the general public interest), or contracted without the



Greek prime minister Alexis Tsipras addresses the Greek parliament
LOUISA GOULIAMAKI/AFP/GETTY IMAGES

promote "higher standards of living, full employment, and conditions of economic and social progress and development."

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moral turpitude of banks such as Goldman Sachs, which helped Greece to conceal its economic vulnerability. Greece has grounds for appealing to international law to lighten a debt that an audit would reveal to be odious, illegitimate and illegal. But it is often the power relationship between the parties that determines how the law is applied.

In 1898 the US declared war on Spain on the pretext of an explosion on the *USS Maine*, in the harbour at Havana. The US "liberated" Cuba and made it a protectorate – "[reducing] the independence and sovereignty of the Cuban Republic to a myth" (6), according to the Cuban general Juan Gualberto Gómez, who had fought in

the US had "repaid more than £15m to the UK on its accession to independence" (7).

The US did not see it that way, and put forward a relatively novel idea which contributed to the establishment of the concept of odious debt: that nations cannot be expected to repay debts contracted in order to enslave them. The press reflected the firmness of the US position: "Neither has Spain any further hope that the United States can be fooled or cajoled into assuming the war debt created in trying to crush the Cubans," wrote the *Chicago Tribune* in 1898. Cuba paid nothing.

In 1861 Mexico had tried a similar argument. President Benito Juárez had suspended repayment on debts mostly contracted by previous regimes, including that of the dictator Antonio López de Santa Anna. France, Britain and Spain invaded Mexico, creating a state that they handed over to Maximilian of Austria.

In 2003 the US intervened on behalf of Iraq, using the same argument as emerging Soviet Russia had in 1918 when it refused to repay debts contracted by Nicolas II (8). A few months after the invasion, US treasury secretary John W Snow said on television: "Certainly the people of Iraq shouldn't be saddled with those debts incurred through the regime of the dictator who is now gone." The US priority was to ensure that the regime it had installed in Baghdad would be solvent. An idea emerged that astounded those who believed in the continuity of the obligations of states: that the repayment of debts should be a matter of arithmetic rather than of principle. The *Financial Times* wrote: "Relief should also focus on the mathematics of sustainability." This suited the US, which stopped talking of odious debt: the US, confident that Iraq's main creditors, led by France and Germany with $3bn and $2.4bn in bonds respectively, would see its decision as right, urged them to be fair

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■ Renaud Lambert is deputy editor of *Le Monde diplomatique*

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Half of Greece's young adults are unemployed, 30% of all Greeks are living below the poverty line and 40% could not heat their homes this winter. Some of Greece's debt was contracted during the dictatorship of the colonels (1967-74), when it quadrupled; some was contracted against the interests of the people (mostly to bail out French and German banks); some is a direct result of the corruption of Greek politicians by multinationals, including German group Siemens, wanting to sell (sometimes defective) products to the Greek government; and some is due to the moral turpitude of banks such as Goldman Sachs, which helped Greece to conceal its economic vulnerability. Greece has grounds for appealing to international law to lighten a debt that an audit would reveal to be odious, illegitimate and illegal. But it is often the power relationship between the parties that determines how the law is applied.

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In 2001 neither the law of numbers nor international law had been enough to persuade Argentina's creditors to be flexible. Argentina's debt, some $80bn at the time, turned out to be intolerable. It had mostly been contracted by the military dictatorship (1976-83), and therefore could be called odious. But the creditors demanded repayment,

The democratic right to cry 'enough'

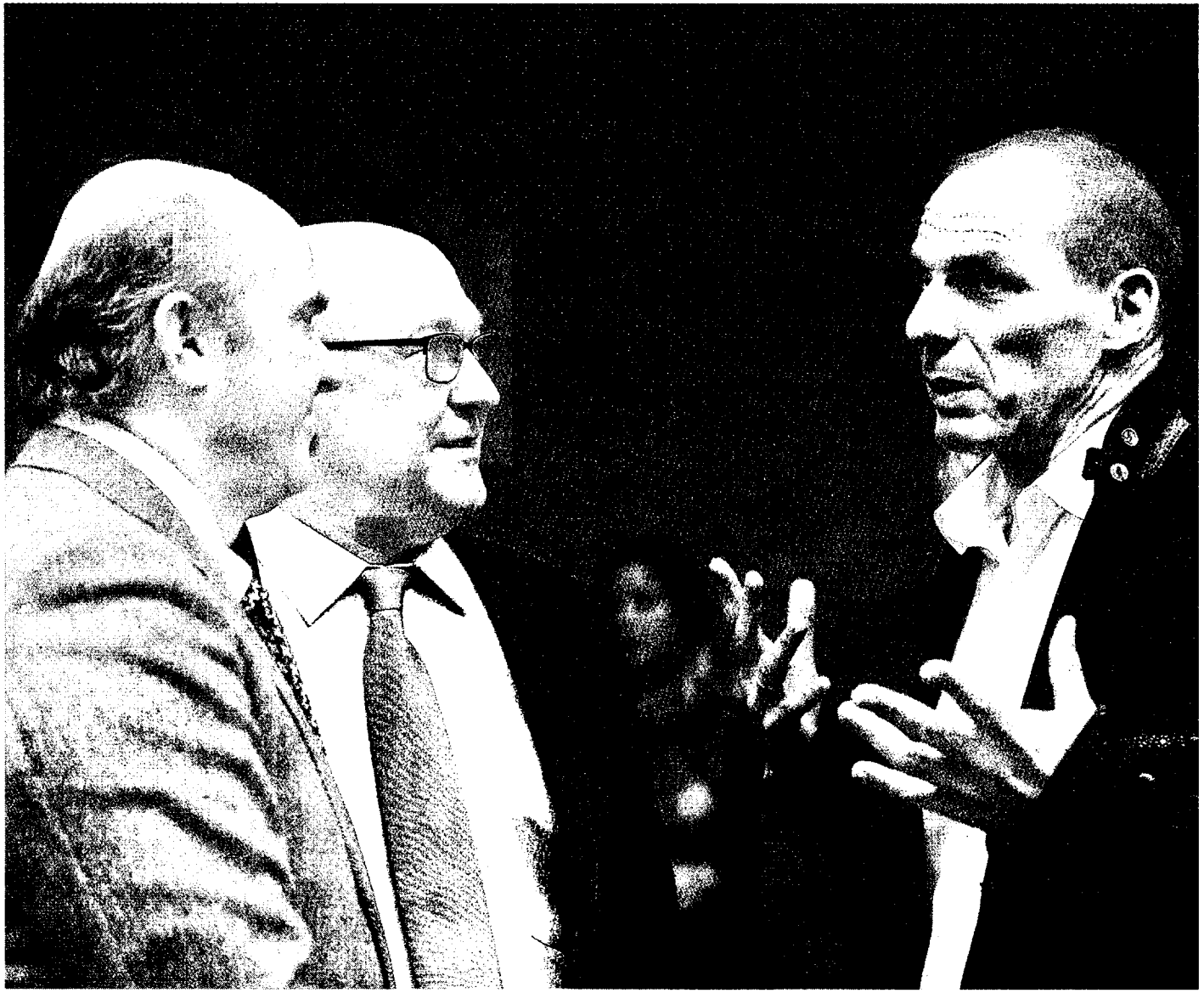
As Europe's vice tightened and the financial markets stepped up the pressure on Greece, immediate effect, all of which were contrary to its government's programme: further cuts in paying off its creditors, at a time when the social distress of the people is acute. Pierre

threatening to deny Argentina access to the financial markets.

Argentina held firm, despite predictions of catastrophe. Between 2003 and 2009 the economy grew by 7-9% a year, and between 2002 and 2005 Argentina offered its creditors the option of swapping their holdings for new bonds worth 40% less. More than 75% reluctantly agreed. Later, the government launched new negotiations that led in 2010 to a further debt swap with 67% of the remaining creditors. But agreement has yet to be reached on 8% of the bonds, on which payment has been suspended since 2001. Vulture funds are trying to force Argentina to redeem them, threatening a fresh default (9).

Creditors are naturally reluctant to accept a fall in the value of the debt they hold. Yet they resigned themselves to this at an international conference in London in 1951-52 to negotiate a reduction of the debt of the Federal Republic of Germany. The debates at the time recall those about Greece today, including the contradiction between principles and economic good sense. "Billions of dollars are at stake," wrote Paul Heffernan in the *New York Times*, "but it's not just a question of money. The real stake of the Lancaster House conferences is a vital principle of international capitalism: the sanctity of private international contracts." The negotiators – mainly American, British, French and German – had this in mind, but also understood the issues facing Germany. In a letter, German chancellor Konrad Adenauer had urged the negotiators to "take into account the general economic position of the Federal Republic, notably the increase of its burdens and the reduction of its economic wealth." As economist Timothy W Guinnane wrote, all soon agreed that "reducing German consumption was not an acceptable way to ensure repayment of the debts" (10).

An agreement was finally signed in 1953, including by Greece. It provided for all the debt Germany had contracted between the two world wars to be cut by at least 50%; a moratorium of at least five years on interest payments; and the indefinite deferment of reparations that the victors might have demanded (Eric Toussaint of the Committee for the Abolition of Third World Debt estimates the total debt reduction at around 90%) (11). It also gave Germany the option of making repayments in Deutschmarks, and set limits on debt servicing (5% of the value of Germany's exports) and on the interest rate payable by Germany (5%)



Greek finance minister Yanis Varoufakis (right) speaks with his French counterpart Michel Sapin (centre) and Spanish counterpart Luis de Guindos Jurado during an emergency Eurogroup finance ministers' meeting on 20 February

EMMANUEL DUNAND/AFP/GETTY IMAGES

for a similar conference. However, European institutions seem to share Bloomberg journalist Leonid Bershidsky's view that while Germany

(1) Based on research by Carmen Reinhart and Kenneth Rogoff quoted in *Fakir* supplement, January 2012.
(2) LCI, 4 February 2015; *International New York Times*,

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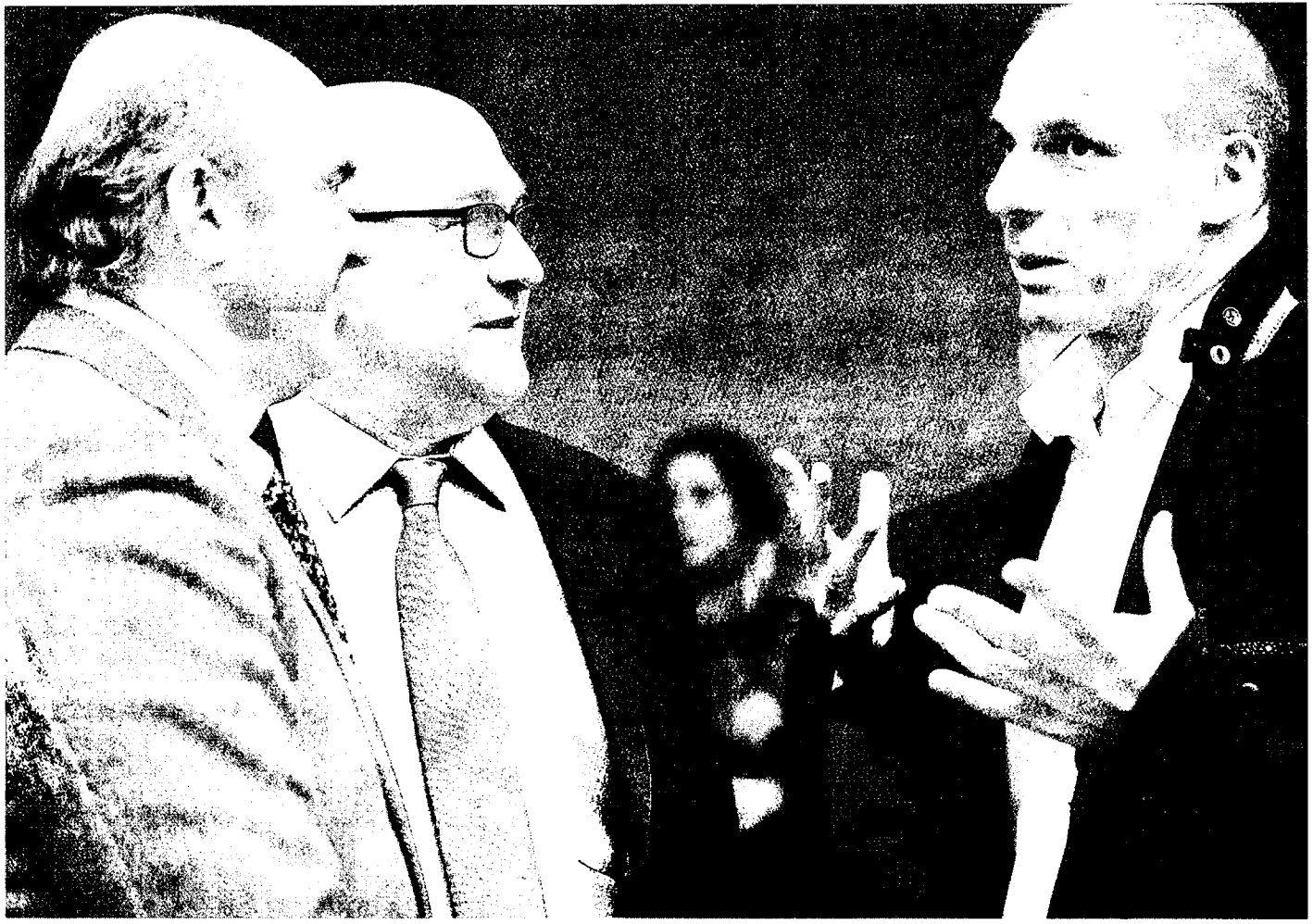
Syriza, which came to power in Greece in the January election, has for several years been calling for a similar conference. However, European institutions seem to share Bloomberg journalist Leonid Bershidsky's view that while Germany deserved debt relief, Greece doesn't: "Part of the reason West Germany was granted debt relief lay in the Federal Republic's importance as a western bulwark in the fight against Communism. ... The West German governments that benefited from the debt relief were resolutely anti-Communist and anti-Marxist." Syriza's programme is not Marxist, and the ruling Greek coalition professes a moderate social democracy that was still widespread a few decades ago, though it has since become unacceptable from Berlin to Brussels.

TRANSLATED BY CHARLES GOULDEN



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(2) LCI, 4 February 2015; *International New York Times*, 31 January and 1 February 2015; and BBC, 30 December 2014.
(3) The following passage draws on work by Eric Toussaint and Renaud Vivien for the Committee for the Abolition of Third World Debt (CADTM); www.cadtm.org
(4) UNCTAD, "The concept of odious debt in public international law", Discussion Papers, no 185, Geneva, July 2007.
(5) See Eric Toussaint, "Bad debts", *Le Monde diplomatique*, English edition, February 2002.
(6) Quoted by Richard Gott in *Cuba: a New History*, Yale University Press, 2005.
(7) Anaïs Tamen, "La doctrine de la dette "odieuse" ou l'utilisation du droit international dans les rapports de puissance" (The doctrine of "odious" debt, or the use of international law in power relationships), paper presented at the 3rd CADTM conference on international law, Amsterdam, 11 December 2003.
(8) Russian bonds bought by many French savers and redeemed for $400m in 1996, following an agreement between France and Russia.
(9) See Mark Weisbrot, "Beat off the vulture's swoop", *Le Monde diplomatique*, English edition, November 2014.
(10) Timothy W Guinnane, "Financial *Vergangenheitsbewältigung*: the 1953 London debt agreement", Discussion Papers, no 880, Economic Growth Centre, Yale University, January 2004.
(11) "Restructuration, audit, suspension et annulation de la dette" (Restructuring, audit, suspension and cancellation of debt), interview with Eric Toussaint; www.cadtm.org
(12) Albrecht Ritschl, "Germany was Biggest Debt Transgressor of 20th Century", 21 June 2011; www.spiegel.de