


Mauro Megliani

Sovereign Debt

Genesis - Restructuring - Litigation

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Sovereign Debt Genesis Restructuring Litigation

**Carlos Espósito, Yuefen Li, Juan Pablo
Bohoslavsky**



Sovereign Debt Genesis Restructuring Litigation:

Sovereign Debt Mauro Megliani, 2014-11-21 This book provides a thorough legal analysis of sovereign indebtedness examining four typologies of sovereign debt bilateral debt multilateral debt syndicated debt and bonded debt in relation to three crucial contexts genesis restructuring and litigation Its treatise style approach makes it possible to capture in a systematic manner a phenomenon characterized by high complexity and unclear boundaries Though the analysis is mainly conducted on the basis of international law the breadth of this topical subject has made it necessary to include other sources such as private international law domestic law and financial practice moreover references are made to international financial relations and international financial history so as to provide a more complete understanding Although it follows the structure of a continental tractatus the work strikes a balance between consideration of doctrinal and jurisprudential sources making it a valuable reference work for scholars and practitioners alike

Sovereign Debt Restructuring and the Law Sebastian Grund, 2022-12-30 The book sheds light on the perhaps most important legal conundrum in the context of sovereign debt restructuring the holdout creditor problem Absent an international bankruptcy regime for sovereigns holdout creditors may delay or even thwart the efficient resolution of sovereign debt crises by leveraging contractual provisions and in an increasing number of cases by seeking to enforce a debt claim against the sovereign in courts or international tribunals Following an introduction to sovereign debt and its restructuring the book provides the first comprehensive analysis of the holdout creditor problem in the context of the two largest sovereign debt restructuring operations in history the Argentine restructurings of 2005 and 2010 and the 2012 Greek private sector involvement By reviewing numerous lawsuits and arbitral proceedings initiated against Argentina and Greece across a dozen different jurisdictions it distills the organizing principles for ongoing and future cases of sovereign debt restructuring and litigation It highlights the different approaches judges and arbitrators have adopted when dealing with holdout creditors ranging from the denial of their contractual right to repayment on human rights grounds to leveraging the international financial infrastructure to coerce governments into meeting holdouts demands To this end it zooms in on the role the governing law plays in sovereign debt restructurings revisits the contemporary view on sovereign immunity from suit and enforcement in the international debt context and examines how creditor rights are balanced with the sovereign's interest in achieving debt sustainability Finally it advances a new genealogy of holdouts distinguishing between official and private sector holdouts and discussing how the proliferation of new types of uncooperative creditors may affect the sovereign debt architecture going forward While the book is aimed at practitioners and scholars dealing with sovereign debt and its restructuring it should also provide the general reader with the understanding of the key legal issues facing countries in debt distress Moreover by weaving economic financial and political considerations into its analysis of holdout creditor litigation and arbitration the book also speaks to policymakers without a legal background engaged in the field of international finance and economics

The International Law of Sovereign Debt

Dispute Settlement Kei Nakajima, 2022-09-22 This book fills the normative gap arising from the absence of a multilateral mechanism for sovereign debt restructuring

The Doctrine of Odious Debt in International Law Jeff King, 2016-05-26 According to the doctrine of odious debt loans which are knowingly provided to subjugate or defraud the population of a debtor state are not legally binding against that state under international law Breaking with widespread scepticism this groundbreaking book reaffirms the original doctrine through a meticulous and definitive examination of state practice and legal history It restates the doctrine by introducing a new classification of odious debts and defines odiousness by reference to the current much more determinate and litigated framework of existing public international law Acknowledging that much of sovereign debt is now governed by the private law of New York and England Jeff King explores how odious debts in international law should also be regarded as contrary to public policy in private law This book is essential reading for practising lawyers scholars and development and human rights workers

Sovereign Defaults Before Domestic Courts Hayk Kupelyants, 2018 In this new book Hayk Kupelyants examines sovereign debt litigation before the English and New York courts The book sets out parties litigation choices at various stages of proceedings and provides the legal background against which parties to a sovereign bond may wish to negotiate The book offers an exhaustive account of litigation tactics available to bondholders and sovereign debtors alike The book is unique in the breadth of its coverage It examines issues of jurisdiction and choice of law at the preliminary stages of litigation substantive challenges of various sorts to sovereign debt restructurings and to the repayment of bonds on merits and enforcement of final judgments against the state and its assets in the post judgment phase This is a systematic explanation and critical evaluation of a difficult area of law with regard to the current state of the law and key provisions of sovereign bond documents

Contemporary Issues in Development Finance Joshua Yindenaba Abor, Charles Komla Delali Adjasi, Robert Lensink, 2020-12-29 Contemporary Issues in Development Finance provides comprehensive and up to date coverage of theoretical and policy issues in development finance from both the domestic and the external finance perspectives and emphasizes addressing the gaps in financial markets The chapters cover topical issues such as microfinance private sector financing aid FDI remittances sovereign wealth trade finance and the sectoral financing of agricultural and infrastructural projects Readers will acquire both breadth and depth of knowledge in critical and contemporary issues in development finance from a philosophical and yet pragmatic development impact approach The text ensures this by carefully integrating the relevant theoretical underpinnings empirical assessments and practical policy issues into its analysis The work is designed to be fully accessible to practitioners with only a limited theoretical economic background allowing them to deeply engage with the book as useful reference material Readers may find more advanced information and technical details provided in clear concise boxes throughout the text Finally each chapter is fully supported by a set of review questions and by cases and examples from developing countries particularly those in Africa This book is a valuable resource for both development finance researchers and students taking

courses in development finance development economics international finance financial development policy and economic policy management Practitioners will find the development impact policy and conceptual analysis dimensions insightful analysing and designing intervention strategies

Re-Imagining Sovereign Debt in International Law through the lens of Socio-Economic Rights Muhammad Bello, 2024-07-22 Re imagining sovereign debt examines the extent to which sovereign debtors contractual obligations may be honoured where the socio economic rights of their citizens face clear danger of non realisation It critiques the foundational legal paradigm that influences and shapes the substance of the sovereign debt regime In doing this the author employs legal theory to show the inadequacies of the regime in terms of its failure to embrace the dynamism of sovereign debt which he characterises as a debt with a complex mix of public private elements hybridity of norms and multiplicity of interests beyond the two sided creditor debtor matrix By locating socio economic rights in all critical phases of the regime the author shows that the recurring circles of debt crises are linked to the continuing influence of the private law paradigm The book offers a fresh perspective to re imagine sovereign debt using insights from transnational legal theorists and advocates prioritising socio economic rights considerations in debt contracting restructuring and adjudication through a more concrete recognition of creditors responsibilities Re imagining sovereign debt will interest lawyers policymakers diplomats scholars and researchers interested in the law history and politics of sovereign debt

Sovereign Debt and Human Rights Ilias Bantekas, Cephas Lumina, 2018-11-15 Sovereign debt is necessary for the functioning of many modern states yet its impact on human rights is underexplored in academic literature This volume provides the reader with a step by step analysis of the debt phenomenon and how it affects human rights Beginning by setting out the historical political and economic context of sovereign debt the book goes on to address the human rights dimension of the policies and activities of the three types of sovereign lenders international financial institutions IFIs sovereigns and private lenders Bantekas and Lumina along with a team of global experts establish the link between debt and the manner in which the accumulation of sovereign debt violates human rights examining some of the conditions imposed by structural adjustment programs on debtor states with a view to servicing their debt They outline how such conditions have been shown to exacerbate the debt itself at the expense of economic sovereignty concluding that such measures worsen the borrower s economic situation and are injurious to the entrenched rights of peoples

The Global Economic Order Elli Louka, 2020-04-24 Exploring in depth the institutions that underpin the global economy this study provides invaluable insights into why a minimum economic order has endured for so long and why states are unwilling to establish a maximum order a global safety net for all The author investigates how debt a critical component of states economic infrastructure leads to debilitating crises and how these crises undermine the economic autonomy and political independence of states

Sovereign Debt Diplomacies Pierre Penet, Pierre Pénét, Juan Flores Zendejas, 2021 Sovereign Debt Diplomacies revisits the meaning of sovereign debt in relation to colonial history and postcolonial developments

A World of Public Debts

Nicolas Barreyre, Nicolas Delalande, 2020-10-26 This book analyzes public debt from a political historical and global perspective. It demonstrates that public debt has been a defining feature in the construction of modern states, a main driver in the history of capitalism and a potent geopolitical force. From revolutionary crisis to empire and the rise and fall of a post-war world order, the problem of debt has never been the sole purview of closed economic circles. This book offers a key to understanding the centrality of public debt today by revealing that political problems of public debt have and will continue to need a political response. Today's tendency to consider public debt as a source of fragility or economic inefficiency misses the fact that since the eighteenth century public debts and capital markets have on many occasions been used by states to enforce their sovereignty and build their institutions, especially in times of war. It is nonetheless striking to observe that certain solutions that were used in the past to smooth out public debt crises—deflation, default, cancellation, or capital controls—were left out of the political framing of the recent crisis, therefore revealing how the balance of power between bondholders, taxpayers, pensioners, and wage earners has evolved over the past 40 years. Today, as the Covid-19 pandemic opens up a dramatic new crisis reconnecting the history of capitalism and that of democracy, seems one of the most urgent intellectual and political tasks of our time. This global political history of public debt is a contribution to this debate and will be of interest to financial, economic, and political historians and researchers. Chapters 13 and 19 are available open access under a Creative Commons Attribution 4.0 International License via link.springer.com. **Austrian Reconstruction and the Collapse of Global Finance, 1921-1931**

Nathan Marcus, 2018-04-30 Although some statesmen and historians have pinned Austria's and the world's interwar economic implosion on financial colonialism, in this corrective history Nathan Marcus deemphasizes the negative role of external players and points to the greater impact of domestic malfeasance and predatory speculation on Austrian political and financial decline. *Global Lawmaking and Social Change*

Gregor Novak, 2024-12-12 Customary international law is a widely recognised modality of international lawmaking. It underpins all norms of international law and shapes all aspects of global society. Yet familiar approaches to customary international law struggle to answer basic questions about its role, operation, and prospects. Pursuing an interdisciplinary approach, this book offers an alternative perspective on customary international law as a dynamic and multifaceted social phenomenon and idea. It explores customary international lawmaking in different social contexts, including the regulation of armed conflict, the treatment of the other, and the management of global environmental risks. Focusing on the varieties of customary international law, it identifies four types of customary international law norms and explores their roles and implications. Critically revisiting a classic topic of international law, the book provides a tool for understanding and shaping global lawmaking and social change in a rapidly changing international legal order. *International Investment Law and the Global Financial Architecture*

Christian J. Tams, Stephan W. Schill, Rainer Hofmann, 2017-02-24 This book explores whether investment law should protect against such regulatory measures, including where these have the support of multilateral institutions. It considers where the line should be

drawn between legitimate regulation and undue interference with investor rights and equally importantly who draws it

Law & Investment in Africa Tinahse Kondo, 2021-04-19 Zimbabwe has had a chaotic foreign direct investment FDI regime This has created the need for a detailed volume on the most important developments around the protection and treatment of FDI at not only a domestic level but also at bilateral regional and international levels The author argues that while Zimbabwe has now harmonised previously scattered legislation under the Zimbabwe Investment and Development Agency Act Chapter 14:37 and taken measures to reverse to varying degrees controversial policies such as the land reform programme and the Indigenisation and Economic Empowerment Policy scepticism still prevails over the investor friendliness of the FDI regime in Zimbabwe

Principles of International Economic Law Matthias Herdegen, 2016-10-06 Principles of International Economic Law provides a comprehensive overview of the central topics in international economic law with an emphasis on the interplay between the different economic and political interests on both the international and domestic levels Following recent tendencies the book sets the classic topics of international economic law like WTO law investment protection commercial law and monetary law in context with aspects of human rights environmental protection and the legitimate claims of developing countries The book draws a concise picture of the architecture of international economic law with all its complexities without getting lost in fragmented details Providing a perfect introductory text to the field of international economic law the book thoroughly analyses legal developments within their wider political economic or social context Topics covered range from codes of conduct for multinational enterprises to the human rights implications of the exploitation of natural resources The book demonstrates the economic foundations and economic implications of legal frameworks It puts into profile the often complex relationship between on the one hand international standards on liberalization and economic rationality and on the other state sovereignty and national preferences It describes the new forms of economic cooperation which have developed in recent decades such as the growing number of transnational companies in the private sector and forms of cooperation between states such as the G8 or G20 This fully updated second edition covers new aspects and developments including the growing importance of corporate social responsibility mega regional agreements like CETA TTIP and TPP trade and investment related aspects of human rights law

COVID-19 and Sovereign Debt: The case of SADC Daniel D. Bradlow, Magalie L. Masamba, 2022-02-23 This multi disciplinary publication focuses on the issue of African sovereign debt management and renegotiation restructuring with a particular concentration on the countries that are members of the Southern Africa Development Community SADC It contains a series of essays that were initially presented in several workshops held at the height of the pandemic in 2020 These essays seek to both understand the debt challenges facing these countries and to offer some policy oriented suggestions on how they can more effectively address these They include contributions by global and regional scholars who are seasoned experts and newer researchers and discuss the complexities on debt management and restructuring within the context of the global COVID 19 pandemic In particular this

presented an opportunity for junior researchers from the region to contribute to international discussions on a topic in which the views of young Africans are not heard as often or as clearly as they should be especially given the importance of the topic to Africa and its future Further this book is expected to stimulate debate among academics activists policy makers and practitioners on how SADC should manage its debt

Global Rights? Nehal Bhuta,Rodrigo Vallejo,2024-10-20 What is the place of human rights law within global governance How can we safeguard human rights in various sites of global governance What is the role of the state non state actors and global governance institutions in all this Global Rights Human Rights in Complex Governance interrogates how human rights and global governance interact with various sub fields of international and transnational regulation to answer these foundational questions The volume offers a detailed exploration of the role of human rights in global governance contexts such as the sovereign debt regime global value chains development assistance international food governance and the laws of war Through an in depth study of several global governance regimes based on diverse theoretical and methodological approaches this volume challenges the mainstream discourse on the evolution of human rights law and its limits As a result issue areas that are rarely in conversation with each other such as the World Bank s practices and the law on the use of force are examined through a common analytical framework that is both rich and flexible enough to shed new light on individual areas of concern and simultaneously reflect on cross cutting themes Bringing human rights experts together with leading scholars in the law of international organizations public finance corporations and use of force Global Rights thus serves as a contemporary reflection and set of arguments on how to study and productively think about human rights in complex governance settings

Sovereign Financing and International Law Carlos Espósito,Yuefen Li,Juan Pablo Bohoslavsky,2013-10-03 The regulation of sovereign financing is a highly topical and significant issue in the light of continuing global financial turmoil This book assesses the role of international law in sovereign financing addressing this issue from both legal and economic standpoints It takes as a starting point the recent report Principles on Responsible Sovereign Lending and Borrowing by the United Nations Conference on Trade and Development UNCTAD This report was endorsed by the United Nations General Assembly in its December 2011 Resolution on Debt which emphasized the need for creditors and debtors to share responsibility for preventing unsustainable debt situations and encouraged all stakeholders to pursue the ongoing discussions within the framework of the UNCTAD Initiative Investigating the legal and economic basis for the principles which were articulated in the report the book develops a detailed and nuanced analysis of the controversial and complex issues they raise including those concerning finance and credit rating agencies contingent liabilities debt management corruption fiduciary relations and duties Collective Action Clauses and the role of the EU and UN Ultimately it argues that the principles elaborated in the report correspond with general principles of international law which provide a strong pre existing foundation upon which to build responsible principles for sovereign financing

Elementos jurídicos da reestruturação internacional da dívida pública Gabriel

Loretto Lochagin, 2012-10-17 Numa fase histórica onde tudo está em mudança e onde como dissemos as ideias e os modelos de gestão pública que julgamos assentes são questionados pela força dos fatos e das práticas impõe-se repensar esta ideia feliz sintática e aglutinadora que a boa gestão da administração pública em todos os seus aspectos pois que honestamente não podemos aspirar ou reivindicar padrões devida que hipotéquem o futuro das gerações vindouras comprometendo agora os recursos futuros que eles mesmos a seu tempo irão gerar. Somos assim recordados de uma revolução de paradigma que nos salta vista mas sobre a qual a academia não tem refletido suficientemente. Este é o rito estruturante de uma tese como esta que para além de refletir sobre o uso e o abuso da figura reflete também sobre a necessidade de melhor articularmos todos esses eixos principais valores postulados regras práticas e limites para que emergja no futuro um direito financeiro que articule as melhores práticas públicas necessárias a uma boa gestão de interesse geral com os novos desafios num mundo que é global mas onde não existem ainda regras globais para dirimir os conflitos emergentes das operações de reestruturação conversão consolidação e até de inadimplemento das vidas soberanas.

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