Sovereign Financing And International Law The Unctad Principles On Responsible Sovereign Lending And Borrowing

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Sovereign Financing and International Law: The UNCTAD Principles on Responsible Sovereign Lending and Borrowing - Oxford Scholarship. This book provides in-depth analysis of the legal, economic and financial implications of the United Nations Conference on Trade and Development (UNCTAD) Principles on Responsible Sovereign Lending and Borrowing (the Principles), launched in 2012 in response to the causes and widespread effects of the global financial and economic crisis.

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1. As an independent project that stems from the conference on ' Responsible Sovereign Financing: The Search for Common Principles ' organized by the University A

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Sovereignty and international law. Although the doctrine of sovereignty has had an important impact on developments within states, its greatest influence has been in the relations between states. The difficulties here can be traced to Bodin ' s statement that sovereigns who make the laws cannot be bound by the laws they make (majestas est summa in cives ac subditos legibusque soluta potestas).

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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 endorsedby the ...

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" The architecture of sovereign debt management looks more and more like it was made for a world that doesn't exist anymore, it is premised on a lot of bright lines that may be administratively necessary but just aren't tenable, " said Anna Gelpern, professor at Georgetown Law and nonresident senior fellow at PIIE.

Work needed to ease sovereign debt concerns globally ...
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.

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Sovereign Finance and the Poverty of Nations: Odious Debt ...
Sovereign Financing and International Law : the UNCTAD Principles on Responsible Sovereign Lending and Borrowing.. [Carlos Esp ó sito; Yuefen Li; Juan Pablo Bohoslavsky] -- The regulation of sovereign financing is a highly topical and significant issue, in the light of continuing global financial turmoil.

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The module discusses contentious issues in international development finance such as the conditionality attached to financial assistance provided by international financial institutions, sovereign debt restructure, and the policy space conferred by international investment agreements to maximise the development impact of foreign direct investment and aid effectiveness.

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Overview. 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).

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.

"Yvonne Wong"s book is one of the best treatments of the Odious Debt problem in the literature. It is thorough, balanced and yet manages to be creative. I have already used an early version in my International Debt class and the discussions that were generated were excellent. For anyone seeking to tackle this age old problem, I highly recommend this book." Mitu Gulati, Duke University, US"With some excellent historical research and important analysis of "odious debt" accumulation and sovereign debt restructuring mechanisms in modern times, this book is placing the issue of "odious debt" at the heart of International law. Thus, it will prove an indispensable companion to any scholar or policy-maker who wishes to gain a multi-prismatic understanding of "odious debt" illegality and its implications for the welfare of entire nations." Emilios Avgouleas, University of Edinburgh, UK"Whenever a strict application of the law produces a result that is at variance with a general sense of what is morally right, trouble is surely in the offing. This is the central thesis of Yvonne Wong"s Sovereign Finance and the Poverty of Nations. When is it legally permissible, when is it ethically acceptable, for a sovereign borrower to disavow a debt incurred in the name of the sovereign state, but not for its (or its citizens") benefit? And if debts incurred by unscrupulous politicians in one era can be disowned by their successors later on under gauzy notions of "illegitimacy" or "odiousness", what will prevent future unscrupulous politicians from casually dishonoring sovereign obligations that they would just prefer not to pay? These are deep waters, legally and morally. Wong has given us a fascinating insight into one of the most disquieting issues in international financial law." Lee C. Buchheit, Cleary Gottlieb Steen & Hamilton LLP, US"This book provides a very valuable contribution to the discussion about odious debts in that it, quite successfully, structures the often rather elusive argumentation. By developing a new and stringent approach to the emergence of a valid legal concept of odious debts, the author presents a fresh perspective to its underlying evaluations and allows, thus, a re-consideration of the need for effective rules in this context. This book will certainly influence fundamentally the future debate of odious debts." Christoph G. Paulus, Humboldt-Universitat zu Berlin, Germany"Saddam Hussein was overthrown and executed, but his successors to power are still liable for the debts that he contracted for the nation. Odious regimes can create debts without consent or benefit of their citizens who must subsequently repay them. This fact puzzles both international law specialists and intellectuals who read magazines like The Economist. Theresult seems wrong, but the right solution is elusive. Yvonne Wong"s important and timely book solves some of the puzzles by using methods and theories from international law, economics, and political science. It explains the law and politics inherent in sovereign debt arrangements, and proposes a new legal framework for odious debt." From the foreword by Robert CooterNational debts incurred by illegitimate regimes against the best interests of the citizens is a serious problem of international economics and politics. These sovereign debts, often referred to as odious debts, deplete the public purse and create an ongoing financial liability that serves to constrain investment and economic growth, and conspires to keep millions in poverty. This important and timely book explains the legal principles and politics involved in the issue of odious debts, and sovereign debt arrangements more generally. The author goes beyond abstract arguments and proposes legal rules and international regulation that should be put in place to create the right incentives to stop the transmission of odious debts. Her proposal is for a registration scheme for sovereign debt, and the imposition of positive duties on financiers who provide loans to sovereign borrowers.Sovereign Finance and the Poverty of Nations will appeal to students, academics, debtactivists, policymakers, international finance practitioners and anyone with a general interest in sovereign finance affairs.

Internationale Finanzkrisen erweisen sich als nicht seltene und zeitlich unbegrenzte Ereignisse. Jeder Finanzkrise in der Historie haften die gleichen klassischen Charakteristiken an: die Besch ä digung makro ö konomischer Indikatoren, der Psychologie sowie die Panik der Investoren, Spekulationen. Das Ziel dieser Arbeit besteht darin, die Entwicklung des Rechtsrahmens der Verwaltung souver ä ner Schulden zu analysieren, um die bevorzugten normativen Entscheidungen jedes Akteurs zu verstehen, zu bewerten und im Anschluss entsprechend Handlungsanweisungen zu geben. Angesichts der gegenw ä rtigen normativen Unsicherheit, ist es von gr ö ß ter Bedeutung die Auseinandersetzung mit finanziellen Krisen, die entsprechenden Reformvorschl ä ge, die Suche nach Systemverbesserungen hinsichtlich einer Marktregulierung und die Rolle der multilateralen Institutionen bez ü glich der Verwaltung souver ä ner Schulden zu untersuchen. Nach der Feststellung des Vorliegens einer internationalen Verpflichtung zum Staatsschuldenmanagement wird die Einf ü hrung normativer Werkzeuge bef ü rwortet, um nationale Vorschriften auf Grundlage bereits bestehender Modelle zu integrieren.

This book describes and assesses an emerging threat to states ' territorial control and sovereignty: the hostile control of companies that carry out privatized aspects of sovereign authority. The threat arises from the massive worldwide shift of state activities to the private sector since the late 1970s in conjunction with two other modern trends – the globalization of business and the liberalization of international capital flows. The work introduces three new concepts: firstly, the rise of companies that handle privatized activities, and the associated advent of "post-government companies" that make such activities their core business. Control of them may reside with individual investors, other companies or investment funds, or it may reside with other states through state-owned enterprises or sovereign wealth funds. Secondly, "imperfect privatizations:" when a state privatizes an activity to another state ' s public sector. The book identifies cases where this is happening. It also elaborates on how ownership and influence of companies that perform privatized functions may not be transparent, and can pass to inherently hostile actors, including criminal or terrorist organizations. Thirdly, "belligerent companies," whose conduct is hostile to those of states where they are active. The book concludes by assessing the adequacy of existing legal and regulatory regimes and how relevant norms may evolve.

Poor public resource management and the global financial crisis curbing fundamental fiscal space, millions thrown into poverty, and authoritarian regimes running successful criminal campaigns with the help of financial assistance are all phenomena that raise fundamental questions around finance and human rights. They also highlight the urgent need for more systematic and robust legal and economic thinking about sovereign finance and human rights. This edited collection aims to contribute to filling this gap by introducing novel legal theories and analyses of the links between sovereign debt and human rights from a variety of perspectives. These chapters include studies of financial complicity, UN sanctions, ethics, transitional justice, criminal law, insolvency proceedings, millennium development goals, global financial architecture, corporations, extraterritoriality, state of necessity, sovereign wealth and hedge funds, project financing, state responsibility, international financial institutions, the right to development, UN initiatives, litigation, as well as case studies from Africa, Asia and Latin America. These chapters are then theorised by the editors in an introductory chapter. In July 2012 the UN Human Rights Council finally issued its own guidelines on foreign debt and human rights, yet much remains to be done to promote better understanding of the legal and economic implications of the interface between finance and human rights. This book will contribute to that understanding as well as help practitioners in their everyday work. The authors include world-renowned lawyers and economists, experienced practitioners and officials from international organisations.

Conventional wisdom holds that all nations must repay debt. Regardless of the legitimacy of the regime that signs the contract, a country that fails to honor its obligations damages its reputation. Yet should today's South Africa be responsible for apartheid-era debt? Is it reasonable to tether postwar Iraq with Saddam Hussein's excesses? Rethinking Sovereign Debt is a probing analysis of how sovereign debt continuity--the rule that nations should repay loans even after a major regime change, or else expect consequences--became dominant. Odette Lienau contends that the practice is not essential for functioning capital markets, and demonstrates its reliance on absolutist ideas that have come under fire over the last century. Lienau traces debt continuity from World War I to the present, emphasizing the role of government officials, the World Bank, and private markets in shaping our existing framework. Challenging previous accounts, she argues that Soviet Russia's repudiation of Tsarist debt and Great Britain's 1923 arbitration with Costa Rica hint at the feasibility of selective debt cancellation. Rethinking Sovereign Debt calls on scholars and policymakers to recognize political choice and historical precedent in sovereign debt and reputation, in order to move beyond an impasse when a government is overthrown.

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 thehistorical, 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.

In response to continuing global financial turmoil, the UN Conference for Trade and Development has produced a set of principles to govern future sovereign financing. This book expands on these principles from a legal and economic perspective to analyse how sovereign financing can be regulated to prevent similar debt crises from occurring again.

Global banking and finance is a complex and specialized field with sector-specific investment forms, subject to distinctive legal and regulatory frameworks and unique types of political risk. This comprehensive guide to international investment protection in the finance and banking sector, written by acknowledged experts in the field of investor-State arbitration, provides the first in-depth discussion of how international investment law applies to investors and investments in the sector. Featuring expert guidance on the key legal protections for cross-border banking and finance investments, with complete and up-to-date coverage of investor-State cases, the analysis crystallizes a set of field-specific legal principles for the sector. In particular, the authors address the following practical aspects of investment protection in the banking and finance sector: how sector-specific forms of investment, such as loans and derivatives, impact the dispute resolution process; types of political risk that cross-border investments in the sector are likely to encounter; distinctive adverse sovereign measures that underlie disputes in the sector, including those from sovereign debt defaults and banking sector bailouts; specific treaty provisions, such as jurisdictional carve-outs and targeted exclusions; remedies available for violations of international investment protections; how monetary damages may be assessed for injury to banking and finance sector investments; the scope of financial services chapters included in certain free trade agreements; the protections available under domestic foreign investment laws; and alternative sources of protection such as political risk insurance and investment contracts. International disputes practitioners and academics, in-house counsel in the finance and banking industries, and arbitrators addressing banking and finance disputes will welcome this book for its practical guidance. With strategies for investors as well as for sovereign States to navigate the intricacies of the investment protection system, the authors ' comprehensive analysis will help ensure appropriate international protection for banking and finance sector investments, both when establishing investments and when resolving disputes. The book lays the groundwork for the future consolidation of international investment protection as a critical tool to manage the political risk confronting global banking and finance.

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