

SOVEREIGN DEBT RESTRUCTURING, NATIONAL DEVELOPMENT AND HUMAN RIGHTS¹

Julieta Rossi

- *Towards a new global consensus (with powerful opponents)* •

ABSTRACT

Julieta Rossi describes how the Néstor Kirchner administration (Argentina) negotiated one of the most important debt swaps in the history of international finance. However, a court judgment in the United States of America, which held that the vulture funds could expect full repayment, undermined the sovereign agreement that had been reached with the majority of other creditors. This article examines how this decision led to international condemnation that the property rights of a few – the creditors – could be held to be more important than the rights of the many – those populations predominantly, though not exclusively, in the Global South. These people's economic, social and cultural rights would likely be negatively impacted by the financial instability of their respective countries if countries are forced to exhaust all resources to pay off their sovereign debt. Key resolutions have subsequently been adopted by the U.N. General Assembly and the Human Rights Council on the issue. Here Rossi examines the Basic Principles on Sovereign Debt Restructuring Processes, which constitute the main guidelines upon which the multilateral regulatory framework must be based. She calls on countries in the Global South to double their efforts to advance their own agenda on the creation of a more just, democratic and equitable international order that truly benefits its peoples and protects the sovereign equality of states.

KEYWORDS

Sovereign debt restructuring | Human rights | Development | Argentina | Global South

1 • The destabilising actions of “vulture funds” and the United States of America (U.S.) justice system in Argentina: A starting point to kick off the global debate

In 2005, Argentina initiated an unprecedented process to reduce its debt burden.² It paid off its existing debt with the International Monetary Fund (IMF) and other multilateral agencies that, in recent decades, had been promoting the adoption of neoliberal policies, which have severe impacts on the population of borrowing countries.³ In spite of this payoff, USD 81.8 billion of defaulted bonds remained in the hands of private creditors, a result of the largest default in Argentina’s history in 2001. In 2005 and 2010, the Néstor Kirchner government promoted debt restructuring processes that involved the cancellation of around two-thirds of the value of the defaulted bonds. These processes were accepted by more than 90 percent of bondholders in one of the most important debt swaps in the history of international finance. Together, these measures “ensured the sustainability of the economic process thanks to the drastic reduction of foreign debt burden and the elimination of the restraints that IMF conditionalities imposed on economic policy.”⁴ They were framed as a political decision to break the cycle of subordinating national interests to those of financial capital and to achieve higher levels of autonomy and sovereignty in defining domestic economic policy.⁵ This repositioning of the state marked a turning point in policy direction. It led to the implementation of policies for economic growth geared toward strengthening the domestic market, promoting employment and social inclusion, and consolidating higher levels of public investment, especially in social services.

Despite the very positive results of the debt restructuring processes, a minority group of creditors led by NML Capital Limited, a subsidiary of the U.S.-based fund Elliot Capital Management (whose public face is Paul Singer, a contributor to U.S. Republican Party campaigns) refused to join the debt restructuring process and filed a lawsuit in courts in the U.S. This group, which constituted only 1.6% of all bond creditors, demanded to be paid 100% of the amount claimed, thus seeking to obtain a tremendous return of approximately 1600% on what they had paid for the bonds at the time of acquisition. These hedge funds, also known as “vulture funds,” acquire the debt of highly indebted states on secondary markets at heavily discounted prices, for speculative purposes. Vulture funds have been especially active since the 1990s. Their goal is to engage in litigation, embargos, smear campaigns, and other forms of political pressure against debtor states in order to obtain full payment of the face value plus accrued interest.⁶

In 2014, a federal judge of a trial court, Thomas Griesa, handed down a ruling in favour of this group.⁷ This ruling was then ratified by the U.S. Court of Appeals for the Second Circuit in New York and later validated by the U.S. Supreme Court, which decided not to intervene in the case.⁸ Based on an unprecedented interpretation of the *pari passu* (equal treatment of creditors) clause, the Griesa ruling barred the Argentine

government from paying the restructured debt unless it paid the group of creditors that had not entered the agreement at the same time. It thus established a mechanism to block the process of paying off the restructured public debt and gave priority to the property rights and the speculative purposes of the bondholders who had not agreed to the restructuring agreement. At the same time, the sentence meant the Argentine government would be forced to ignore the domestic laws on the restructuring of the public debt that the Congress passed in a clear exercise of sovereignty.⁹

In contrast, the Supreme Court of Argentina recently ruled in the Claren Corporation case that the government had the legitimate authority to restructure or suspend payment of the sovereign debt in order to guarantee that the state could continue to function and provide basic services. It also reaffirmed that it is the Court's duty to prevent the execution of a foreign court ruling when the ruling allows an individual actor to evade a debt restructuring process carried out according to domestic laws, which had been adopted in accordance with the constitution.¹⁰

In sum, the intervention of the U.S. justice system, whether by act or omission, validated the following: a vulture fund - or any creditor that refuses to participate in a debt restructuring process undertaken by the sovereign decisions of a state to create the conditions necessary for national development - can dismantle or destroy an agreement that has been negotiated with the rest of the debt holders. Thus, the U.S. judicial system endorsed the exercise of extortion toward a country seeking to guarantee the compatibility of the external debt restructuring process with its economic development. Within this framework, the vulture funds conflict is the expression of "new forms or attempts to subordinate national states to the logic of international financial capital".¹¹

During the negotiation process that began once the Griesa ruling became final, the judge committed many inaccuracies, expressed biased attitudes, and adopted extravagant resolutions that were difficult to understand even for those involved in the process and interested third parties, such as the banks through which the payments to creditors who accepted the restructuring were to be made.¹² Judge Griesa later accepted the claim of the so-called "me too" creditors who demanded equal treatment with the original funds, NML and Aurelius. It is worth mentioning that around 7.6 per cent of the bondholders, whose nominal value is approximately USD 5.6 billion, did not partake in the debt swap. It is estimated that if payment were made to the vulture funds and holdout creditors according to the formula designed by Judge Griesa, it would mean issuing between USD 17.8 billion and 22 billion of new debt - that is, half of the USD 40 billion in bonds that Argentina handed out during the restructuring process in order to normalize 92.4 per cent of those liabilities.¹³

From the time the conflict began until the end of former president Cristina Fernández Kirchner's term in 2015, the Argentine state's position was to pay the rest of the bondholders, provided that they came to a fair, sustainable, and legal agreement with

conditions similar to those of the restructured bondholders. This position was endorsed by renowned economists.¹⁴ Since current president Mauricio Macri assumed office on 12 October 2015 - defending an orthodox and liberal vision on the economy and a return to the logic of external borrowing - resolution of the vulture funds conflict has been a central issue and priority on the government's agenda. In record time, an agreement that is extremely advantageous for these funds was reached. It contains *pari passu* clauses (which include the so-called "me too" creditors) and only cancels between 30 and 27.5 per cent of the monetary claim. However, the percentage used for Singer and related vulture funds is 25 per cent, which falls to 22.5 per cent when other benefits are taken into account.¹⁵

Furthermore, the agreement demands that the Argentine Congress repeal the "Padlock Law" (which established that the state could not offer vulture funds better conditions than those offered to the 93 per cent of the creditors who accepted the restructuring of their debts in the 2005 and 2010 debt swaps) and the Sovereign Payment Law (which named Nación Fideicomisos as the trustee of these payments in place of the Bank of New York). Passed on 30 March 2016, the law that approved the settlement agreement authorised the issuance of USD 12.5 billion in government bonds, the highest amount issued by a developing economy in the last twenty years.

Several analysts anticipate that this agreement, which does not include all litigants, could give rise to new complaints against Argentina by those who negotiated less favourable conditions than the ones now being offered to the vulture funds. This would worsen the problem the agreement claims to resolve.¹⁶ One of the arguments that the bondholders who participated in the restructuring process could use is Law 27.207/15, passed by Congress in November of 2015, which declares the *Basic Principles on Sovereign Debt Restructuring Processes* to be of "public order" and an integral part of Argentina's legal system. The Principles were approved by the United Nations (U.N.) General Assembly in September 2015 and will be examined in Section 3 of this paper.¹⁷ Economists Joseph Stiglitz and Martín Guzmán warned that the agreement signed with the vulture funds "was excellent news for a small group of well-connected investors, and terrible news for the rest of the world, especially countries that face their own debt crises in the future."¹⁸

Litigation and the ominous fate of this conflict in particular aside, the former Kirchner government decided to actively promote a regulatory framework on the international stage - which to date is still non-existent - to prevent these private groups from engaging in extortion and allow other nations to sovereignly restructure their foreign debt in order to reach orderly and sustainable agreements.

This foreign policy decision came to fruition in the form of a series of key resolutions adopted by the U.N. General Assembly and the Human Rights Council in 2014 and 2015. The resolutions aimed to fill the existing gap in this area and to safeguard the fundamental rights of affected countries' populations against the speculative interests of financial capital, as we will see below.

2 • Towards a new global consensus on sovereign debt restructuring

Due to the deeply unjust consequences of the Argentine case and its implications for other developing - or even developed - countries¹⁹ (take, for example, the recent cases of Greece²⁰ and Puerto Rico), the conflict garnered massive support from the international community and, with it, countless declarations of solidarity from various states, regional and international institutions, scholars, and social organisations.²¹

The Argentine case was a spearhead in calls for changing the way the global capitalist system functions, as it offers the vulture funds excessive opportunities to engage in speculation. The conflict brought to light legal gaps at the international level that must be filled: for instance, the lack of regulation on the processes for collecting on sovereign debt. One must take into account that for developing countries, and the poorest countries in particular, debt relief - especially cancellation and restructuring of debt - can be a mechanism to safeguard the people's well-being and their ability to exercise their basic rights. This regulatory gap is particularly important in a context in which experts estimate that the number of claims filed by vulture funds will increase in the future. A recent study shows that the amount of cases against debtor states has doubled since 2004, with an average of eight cases filed per year. Africa and Latin America are harassed the most by vulture funds.²²

At the regional level in Latin America, strong statements have been issued by MERCOSUR, UNASUR, CELAC, PARLASUR, as well as an Extraordinary Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States (OAS), which was called exclusively to discuss the situation of Argentina and vulture funds. At the international level, the Group of 77 and China (G77+China) mentioned the issue in its declaration during the "For a New World Order for Living Well" summit, as did the Group of Twenty (G20). Similarly, technical organisations such as the ECLAC and the IMF spoke in favour of introducing changes to the current state of affairs. In the private sphere, the International Capital Market Association (ICMA), a reference for investment banks and large international funds, announced its decision to modify the rules to be used in future restructuring processes in order to prevent cases such as that of Argentina from arising again.²³

Additionally, human rights organisations around the world have criticised the actions of the U.S. justice system in favour of the vulture funds. They have emphasised that the conflict "reflected a global problem with impacts on human rights" and demanded that the financial system be reformed to restrict "the predatory activities of creditor funds". Among the more than one hundred organisations involved, the Center for Legal and Social Studies (CELS), the *Comisión Colombiana de Juristas*, the *Ligue de Droits de L'Homme*, Conectas Human Rights, the Center for Economic and Social Rights and the Center of Concern stand out.²⁴

The intense international mobilisation, combined with the strong determination of Argentine diplomacy to find a just, equitable and sustainable solution to the conflict, led to the adoption of a series of extremely important international resolutions in September 2014. The resolutions aimed to regulate the debt restructuring processes and limit the predatory actions of vulture funds²⁵ and other representatives of financial capital in order to guarantee the right to development, material well-being and human rights of the affected populations. These resolutions were considered a major step in the development of international law on sovereign debt restructuring.

First, the U.N. General Assembly approved a resolution to elaborate and approve a multilateral legal framework to regulate the restructuring of the countries' public debts. The resolution's text, which Bolivia promoted as president of the G77+China, explains that the purpose of this legal framework is to increase the efficiency, stability and predictability of the international financial system and achieve sustained, inclusive and equitable growth and economic development in accordance with national circumstances and priorities.²⁶ There were 124 votes in favour of the resolution, meaning that 70 per cent of the states present in the debate were in favour of its adoption.²⁷ As Bolivian Ambassador to the U.N. Sacha Llorenti pointed out, the importance of this resolution lies mainly in the fact that for the first time, this issue was being addressed in the most democratic and legitimate organisation of the multilateral system where, he emphasised, "all countries have one vote, regardless of the size of their economy or military power".²⁸ In December 2014, a new resolution, which gained the support of new countries, advanced the process to put the legal framework into motion.²⁹

The U.N. Human Rights Council, for its part, adopted by a large majority³⁰ a resolution³¹ to conduct an investigation on the impact of the activities of vulture funds on human rights.³² Furthermore, the resolution condemns the repayment of debt under predatory conditions, due to the direct negative effects it has on sovereign governments' capacity to fulfill their obligations on economic, social and cultural rights in particular. It also encourages states to participate in negotiations on the establishment of a multilateral legal framework that is compatible with international human rights norms.

3 • The way forward: a multilateral legal framework for sovereign debt restructuring processes in accordance with human rights

As we saw above, the need to impose limits on the vulture funds' operations and to generate clear, fair and predictable rules that provide a framework for sovereign debt restructuring processes succeeded in entering the agenda of the organisations at the centre of the U.N. system as a question of development and human rights. The issue was not relegated to conferences and political declarations of typical economic forums where the U.S. and core countries play a predominant role. This situation reveals a transnational consensus "under construction" on the need to impose (certain) limits on the "deregulated" functioning of the world economy and financial capitalism.

Based on the proposal put forward by Argentina, with the support of the countries of the G77 + China, the U.N. General Assembly went one step further and approved Resolution 319/69 on September 10, 2015, which establishes the *Basic Principles on Sovereign Debt Restructuring Processes* (“Basic Principles”). The resolution was approved by an overwhelming majority, with 136 votes in favour, six votes against (led by the U.S. and countries representing main financial centres)³³ and 42 abstentions.³⁴ These numbers indicate the high level of global consensus on the need to resolve debt crises - which are growing in number - in a timely, legitimate and equitable manner. For this to happen, sustainable and long-term solutions must be identified, especially in light of the fragility of the global economy and the commitment to achieving development objectives and the post-2015 development agenda.³⁵

The countries that represent main financial centres, led by the U.S., advocate for negotiations on this issue to be held in the framework of the IMF - a more favourable arena in which they have an unquestionable advantage. Together with the main market players, they argue in favour of a contractual approach - that is, they propose modifying sovereign bond contracts.³⁶ Joseph Stiglitz, who chairs the Initiative for Policy Dialogue Taskforce on Debt Restructuring, points out that modifying bond issuance contracts is insufficient to resolve the multiple and complex challenges of these processes. He supports the need to create a multilateral framework for debt restructuring.³⁷

The Basic Principles take up several fundamental postulates that have already been elaborated in this area and approved by the Human Rights Council: the *Guiding Principles on Foreign Debt and Human Rights* and the *Principles on Promoting Responsible Sovereign Lending and Borrowing*.³⁸ These principles promote the articulation of responsible sovereign lending and borrowing with human rights and international public law obligations. Moreover, they have the added value of having been adopted by the most representative and democratic body of the international community: the U.N. General Assembly.

These new principles - the sovereign right to debt restructuring, sovereign immunity, equal treatment of creditors, majority restructuring, transparency, impartiality, legitimacy, sustainability, respect for human rights, and negotiations conducted in good faith - constitute the main guidelines upon which the multilateral regulatory framework must be based.

One of the most-emphasised principles is the *sustainability principle*. It says that in a debtor state, sovereign debt restructuring must create a stable debt situation while preserving the rights of creditors and, at the same time, promoting sustained and inclusive economic growth, sustainable development, and respect for human rights. This principle unambiguously expresses the need for norms that regulate international economic processes - in this case, debt restructuring - to be limited by those governing state commitments to respect and guarantee human rights. This link is generally absent in regulations governing the international financial sector.

Furthermore, the *majority restructuring principle* establishes clearly and precisely one of the basic rules of any insolvency or bankruptcy procedures that apply within states: if the results of sovereign debt renegotiations are approved by “a qualified majority”, the rest of the bondholders must abide by them.

Other prominent principles establish that a sovereign state has the right to elaborate its own macroeconomic policy, including the restructuring of its debt. Creditors and debtors must carry out negotiations constructively with the goal of concluding the restructuring process in a transparent and timely fashion. The resolution also stipulates that states must not discriminate among creditors and alludes to state immunity from the jurisdiction of foreign courts in these cases.

As this brief analysis shows, the Basic Principles represent a significant step for negotiations on a new binding multilateral framework that is compatible with human rights commitments. However, as Stiglitz and Guzmán argue, it is possible that the next step - building an international treaty that establishes a mandatory global regime on bankruptcy - will be considerably more difficult,³⁹ since the initiative has powerful, if few, detractors. In the meantime, states can (and should) incorporate these principles in their national legal systems to regulate the actions of state and multilateral or private actors in debt restructuring processes that they may eventually face.⁴⁰ The principles also represent interventions on the national, international and regional level that are needed to put an end to financial capital operations that prioritise the property rights of a few over the right to a decent life of the majority.

4 • Final considerations

In conclusion, the steps the international community has taken to generate a framework for the adequate and predictable management of national debt constitute an important milestone in the path towards a global order that puts human rights and interests before the quest for profit, the speculation of a few private powers and the interests of the most powerful countries. Countries should not be forced exhaust all resources to pay off their sovereign debt, much less when repayment will be at the expense of the well-being and rights of our peoples.

Ultimately, and unfortunately, the Argentine case took a turn in favour of the interests of the vulture funds, but it has undeniably put a matter of utmost importance to developing and poor countries on the global public agenda. This will have concrete impacts on debt processes and lawsuits currently underway. Moreover, it has raised another red flag to warn that something (or many things) in the global economic order must change. The roles of the vulture funds and the U.S. justice system in Argentina have also contributed to heightened awareness of the serious injustices that international financial capitalism has created and continues to make worse.

There is still a long way to go in the political struggle to pass a binding treaty. Moreover, while legal reform is a crucial step, it alone is not enough. It must be accompanied by appropriate institutional changes and sustained political will, which affected individuals and communities actively maintain by mobilising to demand their rights and push for the adoption of structural changes.

Finally, it is necessary for countries in the Global South to double their efforts to advance their own agenda on the creation of a more just, democratic and equitable international order that truly benefits our peoples and protects the sovereign equality of states.⁴¹ An agenda that erodes the extreme asymmetries that fuel the global economy and the democratic deficit of its governance is also needed. An agenda that prioritises national development and the establishment of a global economic order that helps developing countries achieve sustained economic growth, full employment, protection of the environment and nature, and, fundamentally, that guarantees people the right to lead a life in dignity, with autonomy and freedom, is essential. We must work to build a global order that is genuinely in accordance with the founding principles of the U.N. and the Universal Declaration of Human Rights and firmly guides international cooperation to resolve the most urgent international problems, such as poverty and inequality. Today, poverty and inequality are the greatest obstacles to discouraging wars and terrorism and to securing peace and social justice.

NOTES

1 • The basis for the elaboration of this article is Chapter XIII of the report of the Centro de Estudios Legales y Sociales, CELS, *Derechos Humanos en Argentina, Informe 2015* (Bueno Aires: Siglo XXI, 2015).

2 • For more on the composition of Argentina's debt, its exponential growth during the 1976-1983 military dictatorship and the neoliberal economic model based on financial valorisation established from then on, see Eduardo Basualdo, *Acerca de la naturaleza de la deuda externa y la definición de una estrategia política* (Buenos Aires: Instituto de Estudios sobre Estado y Participación (IDEP) de la Asociación de Trabajadores del Estado (ATE), 1999). Also see Aldo Ferrer, "La construcción del Estado

neoliberal en la Argentina," *Revista de Trabajo* 8, no. 10 (July/December 2012).

3 • For more on this issue, see Joseph Stiglitz, *El malestar de la globalización* (Torrelaguna: Punto de Lectura, 2007).

4 • Eduardo Basualdo, coord., *Ciclo de endeudamiento externo y fuga de capitales. De la dictadura militar a los fondos buitres* (Bueno Aires: Cefidar y Universidad Nacional de Quilmes, 2015), 30.

5 • Cfr. CIFRA/CTA, "La naturaleza política y la trayectoria económica de los gobiernos kirchneristas," *Documento de Trabajo no. 14* (October 2015).

6 • For a mapping of the debt crises brought to court since the 1970s, see Julián Schumacher, Christoph Trebesch and Enderlein, Henrik,

"Sovereign defaults in Court: The Rise of Creditor Litigation 1976-2010", 2013. The study highlights, among other issues, that vulture funds have accumulated 106 lawsuits against America and Africa and that currently 50% of debt restructuring ends up in court.

7 • For information on the history of Judge Griesa's actions in relation to Argentina's debt, see Basualdo, *Ciclo de endeudamiento*, 77 and 78.

8 • On the position of the U.S. government and other actors in the case, see Mark Weisbrot, "¿Quién le disparó a Argentina? Un caso misterioso digno de investigación en Washington," *Página/12*, July 1, 2014.

9 • See Alfredo Zaiat, "Legalidad", *Página/12*, August 24, 2014.

10 • Corte Suprema de Justicia de la Nación, "Claren Corporation" c/ E.N. arts. 517/518 CPCC exequátur s/ varios', March 6, 2014.

11 • Basualdo, *Ciclo de endeudamiento*, 59.

12 • See Tomás Lukin, Interview with Sebastián Soler, "El fallo de Griesa es extravagante", *Página/12*, July 10, 2014.

13 • Tomás Lukin, "Una idea para agotar reservas", *Página/12*, June 23, 2015.

14 • See, among others, Aldo Ferrer, "No se debe aceptar cualquier arreglo", *Página/12*, January 15, 2015.

15 • See Alfredo Zaiat, "A los pies de Singer", *Página/12*, March 13, 2016.

16 • See Horacio Verbitsky, "El tercer ciclo", *Página/12*, December 13, 2016.

17 • See Verbitsky, "El tercer ciclo".

18 • See Martín Guzman and Joseph Stiglitz, "How Hedge Funds Held Argentina for Ransom," *New York Times*, April 1, 2016.

19 • Increasing debt is a deliberate strategy on the Washington Consensus' menu of policy options. See Mario Rapoport, *En el ojo de la tormenta, La economía política argentina y mundial frente a la crisis* (Buenos Aires: Fondo de Cultura Económica, 2013).

20 • For more on the recent process on Greece's

debt, see Slavoj Žižek, "El apocalipsis griego," *Página/12*, August 21, 2015.

21 • See Verbitsky, Horacio, "Misión improbable", *Página/12*, June 22, 2014.

22 • Schumacher, Trebesch and Enderlein, "Sovereign," 3.

23 • For details on these declarations, see, CELS, *Derechos*, cap. XIII.

24 • CELS, "El conflicto entre Argentina, los fondos buitres y el poder judicial de Estados Unidos refleja un problema global con impacto en los derechos humanos", Argentina, July 29, 2014.

25 • Abramovich argues that the strategy of the Argentine government in this case is an example of how an international forum and the principles of public law and human rights can be used to restore the state's capacity to exercise regulatory powers while facing transnational actors with concentrated economic power. See Víctor Abramovich, "State Regulatory Powers and Global Legal Pluralism", *Sur, International Journal on Human Rights* 21 (August 2015).

26 • U.N. General Assembly, Resolution A/ RES/68/304, September 9, 2014, "Towards the establishment of a multilateral legal framework for sovereign debt restructuring processes" September 17, 2014.

27 • The U.S., England, Japan, Canada, Australia, and Israel voted against it.

28 • See U.N. News Centre, "La Asamblea General dispuesta a aprobar un marco regulador para procesos sobre deuda", September 9, 2014.

29 • U.N. General Assembly, Resolution A/ RES/69/247, "Modalities for the implementation of resolution 68/304, entitled 'Towards the establishment of a multilateral legal framework for sovereign debt restructuring processes'", January 13, 2015.

30 • Of the 47 members of the Human Rights Council, it received the support of 33 countries; five were against it and nine abstained.

31 • U.N. Human Rights Council, "Resolution A/ HRC/27/L.26," September 23, 2014.

32 • A preliminary version of the report was presented by Jean Ziegler, head of the drafting group, dated August 3, 2015. See Human Rights Council, U.N., "Draft progress report on the activities of vulture funds and the impact on human rights," A/HRC/AC/15/CRP.1, September 9, 2015.

33 • England, Germany, Japan, Canada and Israel.

34 • A group of European professors and intellectuals - including Thomas Piketty (Paris School of Economics) - encouraged European countries to vote in favour of the General Assembly resolution that establishes the basic principles. See "Europe should back debt crisis principles at the UN," *The Guardian*, September 7, 2015.

35 • See UNCTAD press release, "United Nations General Assembly adopts basic principles on sovereign debt restructuring," September 11, 2015.

36 • Tomás Lukin, "La propuesta para cambiar las reglas del juego", *Página/12*, September 9, 2015. For more on the different alternatives and their implications, see Abramovich, "State Regulatory".

37 • See Skylar Brooks et al., "Identifying and Resolving inter-creditor and debtor-creditor equity issues in sovereign debt restructuring," *Policy Brief* 53, CIGI (January 2015) and Joseph

Stiglitz and Martín Guzmán, "Un paso adelante en beneficio de la deuda soberana," *Project Syndicate*, The world's opinion page, November 9, 2015.

38 • U.N. Human Rights Council, "The effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights," HRC/RES/20/10, July 18, 2012 and the United Nations Human Rights Council, "Human rights and transnational corporations and other business enterprises," HRC/RES/17/4, July 6, 2011, respectively.

39 • Stiglitz and Guzmán, "Un paso".

40 • Argentina approved the principles and declared them to be of public order in Law 27.207. Belgium (2007 and 2014) and Great Britain (2009 and 2010) sanctioned laws designed to put an end to the actions of vulture funds that file claims demanding payment of an excessive amount of benefits from indebted countries in their domestic courts.

41 • For more on this agenda, see the Declaration of the Summit of Heads of State and Government of the Group of 77, "For a new world order for living well," A/68/948, July 7, 2014, annex.



JULIETA ROSSI – *Argentina*

Julieta Rossi graduated as a lawyer from the University of Buenos Aires School of Law and holds a Master of Law degree from the University of New York. She is a professor and researcher at the National University of Lanús, a professor of graduate and post-graduate programmes at the University of Buenos Aires, and a professor of post-graduate programmes at the National University of General San Martín and the National University of Tres de Febrero. She is a member of the Board of Directors of the Center for Legal and Social Studies (CELS) and was the executive director of the International Network for Economic, Social and Cultural Rights (ESCR-Net) and director of CELS' Programme on Economic, Social and Cultural Rights.

email: julietarossi0@gmail.com

Received in January 2016.

Original in Spanish. Translated by Karen Lang.



"This journal is published under the Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License"

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.