world accounts of the way that international legal argumentation actually functions in practice" (p. 18), including by bringing in practitioners' perspectives, sits in relation to a normative (including legal) assessment of such legal arguments and the context in which they operate (*id.*). A large epistemological question lurks in the background: on which assumptions and truth conditions do actors decide what counts as a legal as opposed to a non-legal argument, and what constitutes a good one? When analyzing legal argumentation outside the courtroom, should one make such determinations based on empirical observations on how a specific argument is received by other actors (particularly if those standards may change across contexts and over time), or based on the legal assessment of the study's author?[12]

As Johnstone and Ratner observe, answers to the question of "who decides what counts as a good argument" diverge across the volume (p. 351). This diversity of perspectives, however, might in the end be a strength, and another area for fruitful engagement across disciplinary divides. In particular, within practice theory research in International Relations, the normativity of international practices has attracted increasing attention in recent years. This activity responds to earlier calls for closer engagements with normative theory not only to trace international practices, such as those day-to-day practices involved in the drafting of UN Security Council resolutions (such as "penholding"), but also to be able to ask critically whether such practices led to normatively desirable outcomes.[13] Accounting for how legal argumentation requires or bolsters underlying rule of law values or principles of legality (e.g., Hakimi, Brunnée) are examples of how such assessments can fruitfully be undertaken. Heathcote provides yet another approach. She defines legal argumentation as encompassing not only the preambles of the Security Council resolutions she studies, but also the broader "normative universe they stem from," including "the histories of feminist organizing that come to be only partially included in the resolutions" (Heathcote, p. 87). Through such an approach, she can capture not only what is included, but also what is forgotten within such preambles. Approaches recognizing that "the 'outside' and 'inside' of institutional spaces [are] interconnected" (Heathcote, p. 98) are crucial, and are where *Talking International Law* may reach back to ongoing debates in International Relations practice theory. After all, if overlooked, we miss the opportunity to challenge, where appropriate, the content, potential misuse, or even absence of international legal argumentation.

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Sovereign Debt Restructuring and the Law: The Holdout Creditor Problem in Argentina and Greece. By Sebastian Grund. New York: Routledge, 2022. Pp. xvi, 182. Index.
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Enforcement of Sovereign Debt Contracts and the Use of Force

In 1902, Great Britain, Germany, and Italy ("blockading states") declared a blockade of Venezuelan ports. Venezuelan ships were seized, and the port was physically blocked and bombarded in order to pressure Venezuela to repay its bondholders from the blockading states. Belgium, France, Mexico, the Netherlands, Norway, Spain, Sweden, and the United States (the "neutral states") also had citizens who held claims against Venezuela, but they did not

[12] On such a distinction, e.g., Jakob v. H. Holtermann & Mikael Rask Madsen, *European New Legal Realism and International Law: How to Make International Law Intelligible*, 28 LEIDEN J. INT'L L. 211 (2015).

[13] Jason Ralph & Jess Gifkins, *The Purpose of United Nations Security Council Practice: Contesting Competence Claims in the Normative Context Created by the Responsibility to Protect*, 23 EUR. J. INT'L REL. 630 (2016).

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apply forcible measures to secure their claims. As a result of the blockade, Venezuela agreed to set aside 30 percent of customs revenue from two ports for the payment of all nations holding claims against them. The proposal was accepted, but the blockading states held that their claims should *not* rank equally with the claims of the neutral states. After all, the latter had not participated in the blockade. In the *Venezuelan Preferential Case*[1] the Permanent Court of Arbitration (PCA) decided in favor of the blockading states and held that they did have a right to preferential treatment for the payment of their claims. The case led to significant developments in international law. The PCA's indirect acceptance of the use of force caused fear among some countries that other states would be inspired to enforce creditor claims by similar means. The fear led to the adoption of the 1907 Hague Convention (II) Respecting the Limitation of the Employment of Force for the Recovery of Contract Debts.[2]

Although international law no longer accepts the use of force to enforce sovereign debt contracts (and Article 2(4) of the UN Charter establishes a general prohibition against the use of force), the *Venezuelan Preferential Case* is in many ways still illustrative of current practices in sovereign debt: Creditors are not only still willing to use time and money to push the debtor state to pay them in full in accordance with the original loan terms, they are also willing to take action to ensure preferential treatment as compared with other creditors. Thus, sovereign defaults and debt crisis measures involve more than a simple conflict of interest between a debtor state seeking to solve a sovereign debt crisis and its creditors trying to avoid economic loss; they also involve conflicts among creditors over who will bear the greatest costs. Consequently, in situations where a sovereign debtor is unable or unwilling to repay all its creditors at once, we regularly see that certain creditors seek to obtain preferential treatment compared to (and at the cost of) other creditors..

This holdout creditor problem is the focus of the book under review, written by Sebastian Grund who is currently a Legal Counsel at the International Monetary Fund (IMF) and previously worked at the European Central Bank. More specifically, the book discusses more than a dozen court cases, across numerous jurisdictions, brought by holdout creditors who did not want to participate in the debt crisis resolution measures (debt restructuring) that involved economic losses on their part. As the title of the book indicates, the overall focus of Grund's book is the holdout creditors' effects on the Argentine restructurings of 2005 and 2010, and the 2012 Greek restructuring, the two largest sovereign debt restructuring operations in history.

Formally speaking, a debt restructuring is the exchange of old debt obligations for new debt obligations with altered payment terms. The overriding objective of any debt restructuring operation is to rapidly reach an agreement between a debtor state and its creditors to restore public debt sustainability and enable continued payment of the creditors (p. 5). Creditor participation may be voluntary (contractual renegotiation) or involuntary (typically implemented through a debtor state's regulatory measures). Attempts to hold out from a restructuring can occur during negotiations or after a restructuring agreement has been reached. Grund's focus is on the latter.

Before discussing Grund's findings, some background information on the strategic dynamics that drive the holdout creditor problem will be useful. Because restructuring processes entail economic losses for creditors, it is understandable that creditors might want to hold out from the process and instead claim full payment in accordance with the original payment terms. A debt restructuring may nevertheless be the best solution for the creditors as a group: it gives the sovereign time to change its policies and turn the economy around, eventually permitting greater payments to the entire group of creditors

[1] Preferential Treatment of Claims of Blockading Powers Against Venezuela (Ger., Gr. Brit., and It. v. Venez.), PCA Case No 1903-01, Award (Feb. 22, 1904) [hereinafter *Venezuela Preferential Case*].

[2] Convention Respecting the Limitation of the Employment of Force for the Recover of Contract Debts, Hague Convention II, Oct. 18, 1907, 36 Stat. 2241, 1 Bevans 607.

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compared to a situation in which the debtor state simply defaults.[3] Because there is no overarching insolvency law in domestic or international law to determine the distribution of costs between various creditors and bind them to accept these economic losses, a sovereign debt restructuring process can easily fall victim to free riding. Individual creditors may seek to hold out from a debt restructuring, demand full payment under the original contract terms, and let the co-creditors take the economic costs of a restructuring. The threat or reality of litigation from even a small minority of creditors can significantly disturb a debt restructuring process. When the risk of free riding is high, creditors who otherwise would have been willing to participate in restructuring may be reluctant to do so, as they will have to make additional contributions to compensate for those creditors who refuse to accept restructuring. If no creditor participates in a restructuring, the debtor state will ultimately default, which will result in greater losses for all parties involved. In short, the holdout creditor problem concerns in the first instance the distribution of costs between creditors in a debt restructuring but also often challenges the success of the entire debt crisis resolution itself.

Today, debt levels are very high across the globe. States borrowed significantly in order to respond to the COVID-19 pandemic, and by 2022, debtor states were facing higher interest rates and volatile market conditions, also due to geopolitical developments. With an increasing number of low-income countries in debt distress or in high risk of debt distress,[4] the topic of holdout creditors is unfortunately highly relevant.

This review will, first, locate Grund's book within the broader literature on sovereign debt and discuss the book's approach. Second, it will address one of the book's central findings: that governing law is a key factor influencing the success of a debt restructuring. Third, it will conclude by offering some reflections on the role of the holdout creditor problem in future debt restructurings.

Sovereign Debt Restructuring in Legal Literature

Grund's book joins a corpus of existing monographs on creditor rights and litigation over sovereign debt claims. A classic book in the field is Edwin Borchard's *State Insolvency and Foreign Bondholders*.[5] More recent additions to this corpus include Michael Waibel's *Sovereign Defaults Before International Courts and Tribunals* and Hayk Kupelyants's *Sovereign Defaults in Domestic Courts*.[6] The latter focuses on English and U.S. courts, which are the two main fora governing sovereign debt instruments. Having examined the existing case law, Waibel and Kupelyants both provide a broad taxonomy of potential creditor claims against defaulting sovereigns and of the (far less numerous) legal defenses states may rely upon. In contrast, Grund's focus is in one sense narrower as it looks at creditor lawsuits related to the restructuring processes of only two states, Greece and Argentina.

One may ask if analyzing only two case studies can provide sufficient material to comprehensively discuss the holdout creditor problem in sovereign debt management. The answer is clearly yes. This is even more so when, as in the Argentine and Greek cases, debt restructuring involves thousands of different creditors from different jurisdictions. As Grund points out, Argentina's 2005 debt structuring involved 152 varieties of paper denominated in six currencies and governed by the laws of eight jurisdictions, held by more than 700,000 creditors scattered across the international financial community (p. 31). One single restructuring process can

[3] Astrid Iversen, Intercreditor Equity in Sovereign Debt Restructuring 18–19 (2023).

[4] The World Bank, Debt & Fiscal Risks Toolkit: Debt Sustainability Analysis (DSA), *at* https://www.worldbank.org/en/programs/debt-toolkit/dsa (visited Jan. 12, 2023).

[5] Edwin M. Borchard, State Insolvency and Foreign Bondholders, General Principles, Vol. I (1951).

[6] Michael Waibel, Sovereign Defaults Before International Courts and Tribunals (2011); Hayk Kupelyants, Sovereign Defaults in Domestic Courts (2018).

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therefore give rise to dozens of different lawsuits in the jurisdiction designated in the debt contract, as well as in the creditors' jurisdictions (depending on private international law rules). In addition, creditor protection may be provided by international law, thus enabling creditors to bring claims in international courts and tribunals. In both the Greek and Argentine debt restructurings, holdout creditors challenged the respective governments' restructuring measures in domestic and international courts (and tribunals) with the goal of obtaining better terms than those offered by the sovereign and accepted by the restructured creditors (p. xii). Through the two case studies, the book provides a useful overview of the current landscape of creditor lawsuits in both domestic and international law, and a lucid explanation of the relevance of various legal aspects of the holdout creditor problem and sovereign debt crisis resolution more generally.

The case study approach has clear benefits for a multidisciplinary readership, including those relatively new to the field of sovereign debt. Focusing on the facts of two restructuring processes makes it easier to follow the great myriad of legal disputes and legal arguments that are raised by holdout creditors and the corresponding legal defenses raised by debtor states in the various cases.[7] Just as important, the case study format enables the book to treat questions on both sides of traditional divides between private and public law, and between domestic and international law. This is commendable, as a holistic and thorough understanding of the different types of rules and the interaction between them is key to understanding and improving current approaches to sovereign debt and debt crisis resolution.

The Greek and Argentine debt restructurings (and the subsequent lawsuits) have been widely discussed in a number of legal articles the past fifteen years or so.[8] One may therefore ask whether the book contributes new information and insights beyond that found in the existing literature. Those who follow sovereign debt debates and in particular the Greek and the Argentine debt restructurings are likely to be familiar with many of the litigations Grund analyzes. However, treating the lawsuits following the two restructuring processes from a certain temporal distance and more comprehensively in book form proves to have many benefits. First, some of the relevant articles were written during the course of the lawsuits and are therefore partially outdated. By contrast, Grund is able to place the various lawsuits in context, and see longer trend lines when discussing lessons learned. Second, the existing literature typically discusses specific topics (sovereign immunity, collective action clauses, *pari passu* clauses, the jurisdiction of investment tribunals in sovereign debt cases, etc.) in the context of one (or sometimes more) cases before a court or tribunal, in one specific jurisdiction. This relatively narrow approach makes it very difficult for a reader to navigate through the high number of lawsuits and see the broader picture. Grund's book is a clear contribution to the literature in the sense that it is the first comprehensive analysis of almost all the lawsuits and arbitral proceedings initiated against Argentina and Greece across a dozen jurisdictions.

Governing Law and Policy Space for Debt Restructuring

One of Grund's main findings is that the choice of governing law of a debt instrument significantly influences the severity of the holdout

[7] Aimed at a broad readership rather than a specialist legal readership, it shares some qualities with certain anthologies: SOVEREIGN DEBT MANAGEMENT (Rosa Lastra & Lee Buchheit eds., 2014); SOVEREIGN DEBT: A GUIDE FOR ECONOMISTS AND PRACTITIONERS (S. Ali Abbas, Alex Pienkowski & Kenneth Rogoff eds., 2019).

[8] *See, e.g.*, Anna Gelpern, *Sovereign Debt: Now What?*, 41 YALE J. INT'L L. ONLINE 45 (2016) (special edition on sovereign debt); Sebastian Grund, *Enforcing Sovereign Detb in Court: A Comparative Analysis of Litigation and Arbitration Following the Greek Debt Restructuring of 2012*, 1 U. VIENNA L. REV. 34 (2017); Jeromin Zettelmeyer, Christoph Trebesch & Mitu Gulati, *The Greek Debt Restructuring: An Autopsy*, 28 ECON. POL'Y 513 (2013); Michael Waibel, *Opening Pandora's Box: Sovereign Bonds in International Arbitration*, 101 AJIL 711 (2007); Mark C. Weidemaier, Robert E. Scott & G. Mitu Gulati, *Origin Myths, Contracts, and the Hunt for* Pari Passu, 38 L. & SOCIAL INQUIRY 1 (2011).

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creditor problem and the odds of a successful debt crisis resolution. Specifically, Grund argues that the choice of foreign law to govern the debt contract decreases the chances of sovereign debt restructuring measures being shielded against holdout creditor litigation by sovereign immunity rules because it often leads foreign courts to categorizing debt restructuring as a commercial activity, as opposed to a governmental activity. As will be further explained below, this decreases a debtor state's room for maneuver to lawfully implement debt restructuring measures without requiring the consent of all contracting parties (involuntary debt restructuring).

Grund argues that the choice of governing law is a key explanatory factor of why the Greek debt restructuring was more successful than that of Argentina (pp. 142–43). Argentina, like many emerging economies, had waived immunity from legal suits and enforcement measures for disputes arising out of the debt contracts, and agreed to foreign governing law and to resolution of disputes in foreign courts (p. 142). After its 2001 default, Argentina was able to get a creditor participation just above 90 percent through its 2005 and 2010 debt restructurings. To incentivize (or force) creditors to participate in the restructuring, it passed the so-called Lock Law,[9] which prohibited the government both from reopening any additional exchange offers and to continue to service any of the holdout creditors (pp. 31–32) A small percentage of the holdout creditors brought a suit against Argentina in foreign courts to challenge the lawfulness of the debt restructuring and claim full payment under the original debt instruments. The lawsuits lasted over a decade and severely disturbed Argentina's debt crisis resolution efforts. Most foreign courts denied Argentina's claim of sovereign immunity, finding the debt restructuring measures that justified a default on holdout creditors to be commercial activities. They then ruled in the creditors' favor, only taking the contract into account, and denying the legality of its restructuring measures (adopted through local law) as a matter of the *lex fori* (p. 142). Under the Kirchner government, Argentina refused to comply with these foreign payment judgments. As a result, they were excluded from international capital markets. To pressure Argentina to fulfill its obligations, New York courts at one point even implemented injunctive measures prohibiting payments of the majority of creditors who had participated in the debt restructuring (p. 36). The bondholders who had accepted Argentina's debt restructuring offers in 2005 and 2010 and taken on big losses to help Argentina with its economic recovery had been taken hostages by the holdout creditors. When President Macri came to power in December 2015, he sought reconciliation. Within a year, he had reached a settlement agreement with the holdout creditors. In the end, the relentless group of small, distressed fund managers were awarded (p. 66). With the Argentine case, Grund shows how a regulatory framework that allowed a small percentage of creditors to free ride and make a profit while the majority of other creditors accepted losses to contribute to a debt crisis resolution can pose a risk to the debt crisis resolution and discourage creditors from participating in debt restructuring in the future.

In contrast to the Argentine debt, the great majority of the Greek debt—93 percent—was governed by domestic law. Grund explains that Greece (wisely) chose to restructure only its domestic law-governed debt. The Greek Parliament passed new legislation (the Greek Bondholder Act)[10] to enable the restructuring. It included a statutory collective action mechanism, which enabled a qualified majority (two-thirds) of bondholders to bind potential holdout creditors to the restructuring agreement (pp. 100–01). Also in the case of Greece, holdout creditors brought claims before foreign courts contesting the lawfulness of the restructuring measures. Despite years of judicial confusion with contradictory judgments in European domestic courts, Grund writes that a consensus seemed to emerge that Greece was the master

[9] Lock Law, Law No. 26017, Feb. 10, 2005, B.O. 30590 (Arg.).

[10] Greek Bondholder Act, Nomos 4050/12, (Feb. 2012), GOVERNMENT GAZETTE 2012, A:36 (Greece) [hereinafter Greek Bondholder Act].

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of its own laws and that the adoption of statutes enabling the debt restructuring of local law governed debt was not considered a commercial activity, but rather a governmental act. Therefore, Greece was immune from jurisdiction in foreign courts concerning the debt restructuring measures implemented (p. 143). With regards to lawsuits in Greek courts, the highest administrative court in Greece, the Greek Council of State, rejected the holdout creditors' claim for compensation in 2014.[11] Holdout creditors therefore brought the case to the European Court of Human Rights (ECtHR). In *Mamatas and Others v. Greece*,[12] the ECtHR found that restructuring measures (the adoption of the Greek Bondholder Act) did constitute an interference with the creditors' property rights (cf. Article 1 of Protocol No. 1 of the European Convention on Human Rights). However, the ECtHR concluded that the interference was proportionate in the circumstances and therefore lawful. In the judgment, the Court balanced the need for a restructuring with the creditors' individual rights, also taking into account the creditors' risk-taking when investing in debt securities.

When comparing the Greek and the Argentine debt restructurings, Grund strongly argues that the New York courts' approach to assessing the restructuring of Argentina's foreign law governed debt, which consisted in enforcing contracts at all costs and by all means, is problematic. A "considerably more compelling blueprint for the resolution of future holdout disputes" is, in Grund's view, the "balancing of interests" approach that characterized the ECtHR's assessment of the lawfulness of the Greek restructuring measures (p. 148). Grund also expresses hope that the approach of the ECtHR will create a precedent and guide national courts in all forty-six member countries of the Council of Europe should they be confronted with sovereign bondholder claims in the future (*id.*). The challenge is, as Grund also points out, that this more balanced approach appears to be excluded when the debtor state has chosen foreign law to govern the debt contract. Restructuring measures adopted by debtor countries in their own jurisdictions are typically deemed irrelevant to a foreign court's assessment of the contractual right to payment of foreign law-governed bonds.[13] In this situation, a default on the payment obligation is therefore assessed as a commercial act of the debtor state and not granted immunity. For a foreign state's court to take into account the interests of a debtor state and its citizens in a dispute concerning the fulfillment of a contract in which it has accepted jurisdiction, special legislation in the forum state is likely to be required. With some exemptions, there seems to be little appetite to adopt such legislation (pp. 156–60).

In sum, the book convincingly explains how the choice of foreign governing law negatively influences the extent to which debtor states are able to manage holdout creditor problems in a debt restructuring, because it influences protection through sovereign immunity and the applicable rules protecting creditors' contractual/property rights. Grund does note that creditors associate local governing law with greater risk (p. 143). Creditors will typically price in such risk, which results in increased lending costs for sovereign debtors. However, he does not discuss whether perhaps the cost of choosing local governing law is justified given the potential cost of holdout creditor problems under foreign governing law. As research has shown, the argument that providing debtor states with extra restructuring protection will increase cost of borrowing is at times unnuanced.[14] Market participants do not necessarily associate the strengthening of

[11] Plaintiffs claimed that the debt restructuring violated the Greek Constitution, with bondholders alleging a breach of the rule of law (1975 SYNTAGMA [SYN.] [CONSTITUTION] 5 (Greece)), the principle of equality (SYN. 4), and property rights more generally (SYN. 17). *See* SEBASTIAN GRUND, SOVEREIGN DEBT RESTRUCTURING AND THE LAW: THE HOLDOUT CREDITOR PROBLEM IN ARGENTINA AND GREECE 112 (2022).

[12] Mamatas and Others v. Greece, 2016 Eur. Ct. H.R. 694.

[13] F.A. MANN, FURTHER STUDIES IN INTERNATIONAL LAW 188–89 (1990).

[14] Marcos Chamon, Julian Schumacher & Christoph Trebesch, *Foreign-Law Bonds: Can They Reduce Sovereign Borrowing Costs?*, 114 J. INT'L ECON. 164 (2018).

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restructuring incentives with borrowers' moral hazard. Instead, they may consider their implied benefits of an orderly and efficient debt resolution process in case of restructuring.[15] Could this also be the case for the choice of governing law? In the sovereign debt debate, it can be asked whether the argument of debtor moral hazard associated with increased restructuring regulation is given too much weight compared to creditor moral hazard and the cost of protracted or failed debt restructuring due to the lack of regulation for those creditors participating in a debt restructuring, for the debtor itself and for the society as a whole. Some further reflections in the book about the underlying structures influencing a sovereign debtor to either chose domestic or foreign governing law, and more generally what can be done to improve the discrepancy in room for maneuver for debtor states to implement debt crisis resolution measures would have been very welcome. Moreover, when discussing governing law, it could also have been interesting if Grund had reflected on even more fundamental issues: Choosing foreign law to govern sovereign debt and the general tendency where, increasingly, foreign courts accept jurisdiction over sovereign debt disputes, can be described as transforming the legal framework of sovereign debt management from a public law to a commercial private law regime. What Grund describes is that, in an attempt to attract investors (creditors), a number of debtor states have contractually limited their sovereign regulatory powers to implement debt crisis resolution measures by choosing foreign law. A more principled question that could have been raised in the book, is whether such a private law regime is suitable for addressing state debt crises.

The Future of the Holdout Creditor Problem and Sovereign Debt Restructuring

My third and last reflection concerns the role of holdout creditor problems in future debt restructurings. While two types of holdout creditors—specialized hedge funds and retail investors—were responsible for the vast majority of lawsuits in Argentina and Greece, Grund argues that other types of holdout creditors are likely to emerge in future restructurings. In Chapter 5 of the book, he presents an overview (genealogy) of the types of creditors who may undertake to challenge a government debt restructuring in the future and the incentives they might have to do so. Among private creditors, Grund distinguishes between vulture funds (specialized hedge funds); real money investors, such as mutual funds, who fund investments at their full value rather than with borrowed money; retail (i.e., non-professional) investors; and commodity traders that provide financing to sovereigns. Official sector holdouts could include non–Paris Club[16] bilateral lenders and institutions of states, such as central banks (in the context of currency unions) or state-owned enterprises. While not all creditors are equally likely to hold out from debt restructuring, there are few reasons to believe that holdout creditor problems will decrease in the future. It is true that the book indicates that debtor states themselves can reduce the holdout creditor problem by making smart legal choices when issuing and restructuring debt. Nevertheless, the overall impression remaining after having read the book is that the current legal system is somewhat fragmented and offers only piecemeal solutions. Even the advantages of issuing debt under local law may be a one-off possibility in the case of debt restructuring: in the Greek case, participating creditors demanded that Greece no longer use its own laws to issue public debt, but instead foreign law (*id.*).

Grund is not the first to shine a light on shortcomings in the regulatory framework governing sovereign debt and debt crisis resolution. And while there actually is a rather broad agreement that the current system is not satisfactory, no corresponding agreement exists as to the improvements needed. Broadly speaking, two opposing

[15] *See also* the debate on the potential increase in the cost of borrowing related to the implementation of collective action clauses in sovereign debt, Kay Chung & Michael G. Papaioannou, *Do Enhanced Collective Action Clauses Affect Sovereign Borrowing Costs?* (IMF Working Paper WP/20/162, 2020).

[16] The Paris Club is an established group (but not a formal international organization) of Western bilateral creditors cooperating by providing common debt restructuring to debtor states.

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camps exist.[17] One side argues that sovereign debt mainly is, or should be, a publicly regulated system. They advocate for statutory reform and the development of binding international rules and a sovereign restructuring mechanism. The other side argues that sovereign borrowing is, and should continue to be, regulated in accordance with the private contractual approach. This approach favors voluntary market-based contractual reforms, such as implementing majority voting provisions for creditors (Collective Action Clauses (CACs)) similar to that implemented by law in Greece in order to resolve restructuring problems. The promotion of contractual reform to include CACs has been seen as a reaction to—or an effort to defeat—an IMF staff suggestion to establish a sovereign debt restructuring mechanism in the early 2000s,[18] which was vetoed by the United States.[19] Key economic jurisdictions continue to show substantial resistance to any reform initiative that extends beyond a voluntary contractual approach. UN General Assembly Resolution 69/319 on Basic Principles on Sovereign Debt Restructuring Processes[20] provides a more recent example of ongoing disagreements over reforms. The great majority of states acknowledged the need for broader reform—in addition to contractual reforms such as the implementation of CACs—and voted in favor of the resolution. However, a number of influential developed countries were reluctant to agree to the Resolution, which they perceived to go beyond the current market-based approach: forty-one countries abstained, and six voted against (Canada, Germany, Israel, Japan, the UK, and the United States).[21] In brief, the contract-based approach has dominated sovereign debt discourse over the past decades and continues to do so. Between a purely contractual and a strictly binding statutory approach, an increasing number of scholars and maybe also policymakers would argue that there is space and need for incremental reform where contractual and statutory reforms can go hand in hand.[22] With the book's overall call for a more nuanced approach to assessing the lawfulness of debt restructuring measures—one that is able to balance the rights of creditors to full payment with the needs of a state and its citizens in times of economic crisis— it seems reasonable to read Grund to be supportive of (at least) such incremental reform processes.

As reflected in the above-mentioned voting of the General Assembly, it is clear that reform discussions are polarized and politicized. All reform processes should be based on clear and nuanced examinations of the shortcomings of an existing system. Grund's book is a clear contribution in this regard. It is a thorough and thoughtful case study of the holdout creditor problem in the Argentine and Greek debt restructurings, which at the same time provides valuable insight into the most important legal, economic, and policy-related issues in current-day sovereign debt crisis resolution. This review's call for more concrete reform suggestions and further elaboration on certain issues should be read less as a criticism and more as a recognition that Grund has much to offer on this score. Readers, not to say debtor states and policymakers having to address future debt crises, would surely benefit immensely from further reflection on these issues by Grund, given his thorough understanding of the current landscape of the holdout creditor problem. The call for more concrete reform suggestions also stems from a general frustration with international society's inability to improve the legal framework governing sovereign debt crises. Aside from the very important prohibition against

[17] *See* IVERSEN, *supra* note 3, at 421–22.

[18] *See, e.g.*, Anna Gelpern, *Sovereign Debt: Now What?*, 41 YALE J. INT'L. L. ONLINE 45, 68 (2016) (special edition on sovereign debt).

[19] *See* Anne O. Krueger & Sean Hagan, *Sovereign Workouts: An IMF Perspective*, 6 CHI. J. INT'L L. 203 (2005).

[20] GA Res. 69/319 (Sept. 29, 2015).

[21] *Id. See also* MARTIN GUZMAN & JOSEPH E. STIGLITZ, A SOFT LAW MECHANISM FOR SOVEREIGN DEBT RESTRUCTURING BASED ON THE UN PRINCIPLES 4 (2016).

[22] *See* Juan Pablo Bohoslavsky & Matthias Goldmann, *An Incremental Approach to Sovereign Debt Restructuring: Sovereign Debt Sustainability as a Principle of Public International Law*, 41 YALE J. INT'L. L. ONLINE 13 (2016) (special edition on sovereign debt).

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the use of force to enforce sovereign debt contracts following the *Venezuelan Preferential Case*, international society has been able to agree on few systemic improvements over the past hundred years.

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IOM Unbound? Obligations and Accountability of the International Organization for Migration in an Era of Expansion. Edited by Megan Bradley, Cathryn Costello, and Angela Sherwood. Cambridge, UK: Cambridge University Press, 2023. Pp. xxiii, 467. Index.
doi:10.1017/ajil.2024.6

IOM Unbound? is a timely and comprehensive edited volume, exclusively devoted to the study of the International Organization for Migration (IOM). The book, edited by Megan Bradley of McGill University, Cathryn Costello of Oxford, and Angela Sherwood of Queen Mary University, brings together nineteen researchers who work mainly in the fields of international law and international relations. IOM is an agency that has substantially expanded the volume and scope of its activities over the past three decades. The book addresses the implications of these developments, specifically in terms of IOM's respect for the human rights of migrants and for its obligations under international law.

Founded in 1951, IOM is a Geneva-based intergovernmental organization (IO). It was initially mandated to address the situation of the people displaced by World War II in Europe, notably by facilitating their out-migration to the Americas and Australia. Its Constitution conditions state membership on support for "free movement," i.e., the right to leave, which excluded states like the USSR and made membership possible only for Western "capitalist" countries. IOM was set up outside the UN system, as a counterweight to the contemporaneously created Office of the United Nations High Commissioner for Refugees (UNHCR). The United States, in particular, feared communist influence inside UN agencies and played a leading role in the agency. This is still the case today: the United States is the IOM's largest bilateral donor, and in 2023 the Biden administration successfully spearheaded a fierce campaign in favor of its candidate Amy Pope to oust former director Antonio Vitorino from Portugal. Out of the eleven director generals the IOM has had since its creation, Pope is the ninth to come from the United States.

After an initial period marked by instability, IOM became a permanent organization in 1989 and has experienced steady growth since then. It expanded from forty-three member states in 1991 to 175 today. Key non-Western states like China and Russia joined, in 2016 and 2021 respectively. In 2016, it became a related organization of the UN, presenting itself as the "UN migration agency." This is a significant development: international migration is a major political issue throughout the world, with far-reaching implications for development, human rights, security or international cooperation; but the topic used to be rather absent from the UN agenda (as the UNHCR's mandate focuses on refugees only). IOM filled this gap and now plays a key role, both in operational activities and in policy-oriented discussions over global migration governance. It was the leading agency behind the adoption in 2018 of the Global Compact for Safe, Orderly and Regular Migration, an ambitious UN-sponsored multilateral initiative, and also serves as the secretariat of the UN Network on Migration, established in 2019 to coordinate the UN's activities in this field.

IOM's growth and increasing influence have not been without controversy. Because of its financial and political dependence on a small number of states in the Global North, IOM is criticized for focusing its agenda on the migration issues that matter most for these countries, namely the control of borders and the prevention of unauthorized migration. This bias is reinforced by IOM's so-called "projectization" system, which enables member states to fund targeted projects that advance their own agendas (rather than advance the common good