Opening Pandora’s Box: Sovereign Bonds in International Arbitration

Over the last two decades, private creditors have increasingly resorted to litigation in national courts as a means of obtaining payment on defaulted sovereign debt. Arbitration under the auspices of the International Centre for Settlement of Investment Disputes is commonly mentioned as a viable alternative. Such attempts to take defaulting countries to arbitration could upset the sovereign debt market’s delicate equilibrium, and they are also unlikely to succeed. The article shows why ICSID may lack jurisdiction over sovereign debt instruments and why sovereign defaults generally do not trigger state responsibility.

Internationally Wrongful Acts in Domestic Courts

This article explores the situations in which principles of international responsibility may guide domestic courts in determining the consequences that should attach to a finding of breach or potential breach by the forum state of its international obligations, in cases like Sánchez-Llamas and Medellín. It discusses the normative foundation of the application of these principles at the domestic level and explains how domestic courts can contribute to the implementation of international responsibility.

Notes and Comments

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International Decisions

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International Criminal Court decision confirming war crimes charges for conscripting, enlisting, and using child soldiers

Prosecutor v. Alex Tamba Brima, Brima Bassy Kamara & Santigie Borbor Kamu; Prosecutor v. Moinina Fofana & Allieu Koné (Valerie Oosterveld and Andrea Marlowe)

Special Court of Sierra Leone judgment on recruitment and use of child soldiers

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(Beat Rudolf and Nina Hüffken)

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