

Sovereign Debt Restructuring - Including a Model-Law Approach

Unresolved sovereign debt problems and disruptive litigation are hurting debtor nations and their citizens, as well as their creditors. A default can also pose a serious systemic threat to the international financial system. Yet existing approaches to sovereign debt restructuring are inadequate: politics stymie a multilateral treaty approach, and contractual approaches (such as collective action clauses) have not solved the holdout problem—as evidenced by the recent rise in holdout litigation.

Professor Schwarcz will examine a new model-law approach to sovereign debt restructuring. Individual nations and even subnational jurisdictions could enact a model law as their internal law; contracts governed by that law would then become governed by the model law. In this way, choice of law gives a model-law approach a powerful multiplier effect. A model-law approach could also solve the problem of *pari passu* clauses, address the critical need for a financially troubled nation to obtain liquidity during its restructuring process, and help to develop norms for a sovereign debt restructuring legal framework that goes beyond mere contracting.