Abstract

Distressed-debt investors, often referred to as Vulture funds, pose one of the biggest threats when restructuring state bonds.

Their business practice which goes hand in hand with the so called “debt litigation” have huge financial impacts on countries during an economic crisis, especially on some of the poorest states in the world. But at the end of the day, the real victims in this are the people, as, they are the ones whose basic human rights are being violated.

Civil courts usually find that their hands are tied. And even the international public law fails to provide a legal basis that has the power to prevent the Vulture Funds from pursuing said “debt litigation”. The Human Rights Council Advisory Committee has now devoted part of their work to finding a solution to this issue. Their latest strategic approach: the claim for new legislation on a national level, that is meant to limit the profit vulture funds gain by “debt litigation”. However, this does not seem to be a solution to the problem in the long run, as vulture funds are mainly benefitting from the sheer fact that proper “State insolvency proceedings” are non-existent now and have yet to be established. Tackling this very root of the problem would not only help contain the “debt litigation”, but more importantly it would make debt restructuring inevitable for “hold out-creditors”. On top of that, a standardized mechanism, given that it is being supervised by an independent committee, would also be an instrument to increase legal certainty.