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DIGNITAS

Revija za človekove pravice

Slovenian journal of human rights

ISSN 1408-9653

Making Sovereign Financing and Human Rights Work, Hart Publishing, 2014
(Dejan Valentinčič)

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Article information:

To cite this document:

Pablo Bohoslavsky, J. (2014). Making Sovereign Financing and Human Rights Work, Hart Publishing, 2014 (Dejan Valentinčič), Dignitas, št. 61/62, str. 239-241.

Permanent link to this document:

<https://doi.org/10.31601/dgnt/61/62-12>

Created on: 16. 06. 2019

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IN EVROPSKE ŠTUDIJE

Recenzija

Juan Pablo Bohoslavsky and Jernej Letnar Čerňič (eds.),
Making Sovereign Financing and Human Rights
Work, Hart Publishing, 2014 (Dejan Valentinčič)

The question of the connection between sovereign financing and human rights has become particularly topical with the financial crisis currently underway. Yet the issue has its roots long in the past. We cannot be proud of the fact that so little attention has been paid to these questions, even today. The present book is in fact the first real work to deal with this area in all its complexity. It is a book that should have been written a long time ago.

The contributors to this book include well-known professors, practitioners, international experts and vigorous young scholars from around the world with a variety of academic and professional backgrounds including human rights law, international law, financial law, corporate law, economics and history, international organisations, and a geographical background, covering all continents. The book's interdisciplinary and pluralistic approach allows questions from different disciplines to be asked and answered in order to forge a legal theory more in line with the complex financial context in which human rights law is supposed to work.

How is the connection between sovereign financing and human rights generally established? What are the most relevant cases in which sovereign debt can negatively affect human rights? Should international and domestic human rights law be applied to the sovereign debt realm? If so, in which conditions? Do non-state financial actors have any human rights obligations when they give out loans or is the provision of basic services solely a responsibility of the borrower state? If so, what are these obligations and from where do they derive? Which forum can enforce these obligations and how? These are the central questions the contributors deal with.

In the conflict between sovereign financing and human rights, the authors provide a very clear answer: human rights should be

in first place. The contributors to this book seek to explain how private, official and multilateral loans and financial aid can affect human rights in a broad range of causal scenarios. The financial community has hardly been under much pressure from the sources one might expect. What is required is a broad range of measures, some of which are admittedly unlikely to become politically palatable to global elites any time soon, along with many more limited measures which are already well within reach of effective global advocacy campaigns. This edited collection aims to help fill this gap by introducing novel legal theories and analyses of the links between sovereign finance debt and human rights from a range of perspectives. These chapters include studies of financial complicity, UN sanctions, ethics, transitional justice, criminal law, insolvency proceedings, the millennium development goals, global financial architecture, corporations, extraterritoriality, the state of necessity, sovereign wealth and hedge funds, project financing, state responsibility, international financial institutions, the right to development, UN initiatives, litigation etc. These chapters are then theorised by the editors in an introductory chapter.

Besides the introductory chapter, the book is divided into five parts. The first one deals with sovereign financing and gross violations of political and civil human rights, the second with debt crises and social and economic rights, the third with specific financial actors and instruments, along with novel approaches, the fourth presents several case studies detailing how in different contexts and with reference to a diversity of financial instruments human rights have been negatively affected by sovereign debt, while the fifth part presents various case studies from Africa, Asia, South America and Europe.

In July 2012 the UN Human Rights Council finally issued its own guidelines on foreign debt and human rights, yet much remains to be done to promote a better understanding of the legal and economic implications of the interface between finance and human rights. This book will both contribute to that understanding and assist practitioners in their everyday work.

The book seeks to cover a wide, almost thorough, range of possible interlinks between sovereign financing and human rights. It is to be hoped that this publication marks the beginning of a new scholarly phase in which more sophisticated, financially literate, critical and informed analyses of the impacts of international eco-

conomic and financial systems will be brought to bear upon efforts to promote respect for human rights by financial and other actors that have long been highly resistant to such concerns. A variety of actors, financial instruments and human rights is studied by the contributors, but a common thread permeates all of them: sovereign financing negatively affects human rights. With the expectation of finding common roots, patterns and characteristics in the problems illustrated by the contributors, this book offers an in-depth starting point for future discussions while seeking to facilitate a better understanding of the colossal encounter of sovereign financing and human rights, the dilemmas that such a relationship triggers and proposals for a discussion of conceptual tools to make this relationship always work in favour of human rights.

