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ARTICLE

Can Countries Go Bankrupt?

Idoko Ochai, Legal Officer, Isaac Okpanachi Chambers, Abuja, Nigeria

1. Introduction

The recent financial crisis of 2007 has brought the issue of sovereign bankruptcy back to the forefront of the international community. With the collapse of the banking system and governments assuming private liabilities, there has been a migration of private debt to the public sector.[1] This migration of debt has subjected the public finance of countries to severe economic pressure[2] and raises concern of whether sovereigns have the ability to sustain their existing and increasing debt obligations. There is no doubt that sovereign debt if utilised properly 'can have positive effect on the economy'[3] but when such debt becomes unsustainable due to overborrowing or lack of proper utilisation, it can lead to payment imbalance, budgetary deficit and eventual default.[4]

Walter Wriston, the former CEO of City Bank, believes that sovereigns will always have the ability to meet their debt obligations. He argues that 'countries don't go bankrupt since their assets always exceed their liabilities, which is the technical reason for bankruptcy'.[5]

In contrast to his view, Adams Smith believes that 'when it becomes necessary, a State should declare itself bankrupt in the same manner as when it becomes necessary for an individual'.[6] Furthermore, Wolfang Shäuble, the German minister of finance, while commenting on the 'emergency liquidity aid' provided to some European Union (EU) countries stated that 'it must in principle still be possible for States to go bankrupt'.[7]

The two different views expressed above represent the debate among legal scholars as to whether a country can go bankrupt. This paper will contribute to this debate by examining from a practical and legal perspective, the possibility of a country going bankrupt.

First we will consider how government debt works by discussing the underpinning issues in sovereign bankruptcy, a distinction between sovereign default and bankruptcy will be made. Secondly, the statement made by Walter Wriston will be examined by making reference to practical and historical examples to determine if sovereigns can go bankrupt. Thirdly, the lack of any legal mechanism for dealing with sovereign bankruptcy and the practical difficulty of applying existing principles of bankruptcy to sovereigns will be discussed. Finally, this paper will conclude by establishing that legally sovereigns do not go bankrupt but practically it is possible for them to do so.

2. Underpinning issues in sovereign bankruptcy

In order to effectively determine if sovereigns can go bankrupt, it important to understand how public (government) debts work. Sovereign debt can be defined as 'any debt obligation of or guaranteed by an autonomous government'[8] and such debt obligations can be domestic or external. Reinhart and Rogoff distinguish domestic and external debt by categorising them into:[9]

1. Government domestic debt: 'are debts issued under and subject to national jurisdiction, regardless of the nationality of the creditor or the currency denomination of the debt; therefore, it includes government foreign-currency domestic debt'.

Notes

1 International Law Association (ILA) Sovereign Insolvency Study Group, 'State of Insolvency; Options for the way forward' (2010) The Hague Convention available at <www.ila-hq.org/en/committees/draft-committee-reports-the-hague-2010.cfm> accessed 3 April 2011, p. 3.

2 M. Waibel, 'Bankrupt States' (2009) Paper Presented at Asian International Economic Law (AIELN) Inaugural Conference, available at <aieln1.web.fc2.com/Waibel_panel5.pdf> accessed 3 April 2011, p. 1.

3 *Ibid.*

4 R. Olivares-Caminal, 'Is there a need for an International Insolvency Regime in the Context of Sovereign Debt. A Case for use of Corporate Debt Restructuring Technique' (2009) JIBLR 21.

5 W.B. Wriston, 'Was I exacting? Sure. Was I occasionally sarcastic? Of course' (1987) 21 *Institutional Investor*.

6 Cited from; K. Rogoff and J. Zettelmeyer, 'Bankruptcy Procedure for Sovereigns: A History of Ideas 1976-2001' (2002) IMF Staff Papers Vol. 49. No. 3 p. 1.

7 W Schäuble, 'Why Europe's Monetary Union faces its Biggest Crises' available at <www.ft.com/cms/s/0/2a205b88-2d41-11df-9c5b-00144feabdc0.html#axzz1IMXxj4Rf> accessed on 2 April 2011.

8 J. Downes and J.E. Goodman, 'Dictionary of Finance and Investment Terms' (8th edn, Barrons Education Series New York, 2010).

9 C.M. Reinhart and K.S. Rogoff, *This Time is Different* (Princeton University Press, Oxford, 2009) p. 9.

2. Foreign currency domestic debt: 'Debt liabilities of a government issued under national jurisdiction that are nonetheless expressed in (or linked to) a currency different from the national currency of the country'.
3. External debt: 'total debt liabilities of a country with foreign creditors, both official (public) and private. Creditors often determine all the terms of the debt contracts, which are normally subject to the jurisdiction of the foreign creditors or to international law (for multilateral credits)'.

Although there can be different classifications, all sovereign debt is subject to a possible risk of default. Sovereign default, which is failure to pay outstanding debt obligation as and when due,[10] is different from sovereign bankruptcy, although default goes hand in hand with bankruptcy.[11] Most sovereign debt agreements provide for 'event of defaults' where creditors are given the right to treat situations as 'events of default' and accelerate the debt instrument.[12] Defaulting is very common with sovereign borrowing – for instance over 100 countries have defaulted on their debt obligations since 1945.[13] The default can occur when a debtor fails to pay its debt as a result of liquidity problem.[14] The fact that a sovereign defaults as a result of liquidity problems does not necessarily mean it is bankrupt.

On the other hand, bankruptcy means the inability of a sovereign to meet its external debt obligations as they fall due and with regard to domestic debt it need not be insolvent based on the fact that it can print its own currency.[15] However, in practice, distinguishing between a sovereign's ability and inability to pay its debt can be difficult to establish because a sovereign borrower might be experiencing liquidity problem and not necessarily insolvency. Also, sovereign bankruptcy is different from repudiation of debt. Repudiation, according to Wood, occurs when 'a state repudiates its debt whether or not it is in a position to meet its foreign currency liabilities as they fall due, it declares it will not meet the liabilities or adopt other legislative measures which have the effect of expropriating creditors'.[16]

The difficulty in establishing between ability and inability of sovereigns pay their debt has generated a long-standing debate as to whether sovereigns can actually go bankrupt. Most economists and financiers support the orthodox view that 'countries do not go bankrupt' based on the assumption that the payment capacity of the sovereign is unlimited[17] and when they default on their debt obligation it is as a result of unwillingness and not inability to pay. This view explains the reason behind Walter Wriston's famous statement that: 'countries don't go bankrupt ... the infrastructure doesn't go away, the productivity of the people doesn't go away, the natural resources don't go away. And so their assets always exceed their liabilities, which is the technical reason for bankruptcy and that is very different from a company.'[18]

In contrast to this view, the recent financial crises and past events of default by countries have questioned the validity of this comment based on the fact that there is a limit to the people's productivity if it exists, and the debt of a sovereign can exceed the people's productivity. Also, natural resources, if they exist, can depreciate in value, assets can be destroyed due to a natural disaster and the power of the sovereign to exploit the resources can go away. This paper will now examine the elements in support of Walter Wriston's statement.

2.1 Power to tax

The power to tax is considered as one of the reasons why countries cannot go bankrupt because sovereigns can repay their debt through increase in tax revenues.[19] This assumption is based on the fact that countries exist forever and have potential for economic growth, technological improvement and discovery of natural resources which tends to increase the productivity of their taxable assets over time.[20] In other words, with increase in productivity and power to tax its citizens infinitely, 'countries will be able to pay back their debt, no matter how large, given a suitably long period of time'.[21]

In contrast to the above tax theory, for a sovereign to rely on tax to settle its debt obligations it must have a taxable workforce and assets that can generate revenue which can exceed or settle its debt obligations. When a country with a very small population has an external

Notes

10 M. Waibel, n. 2 p. 1.
11 *Ibid.*
12 *Ibid.*
13 C.M. Reinhart and K.S. Rogoff, n. 9 pp. 95-96.
14 R. Olivares-Caminal, n. 4 p. 21.
15 ILA study group, n. 1.
16 P.R. Wood, *Principles of International Corporate Finance* (2nd edn, Sweet and Maxwell, London, 2007) p. 756.
17 J. Eaton and R. Fernandez, 'Sovereign Debt', in G.M. Grossman and K. Rogoff (eds), *Handbook of International Economics* Vol. 3 (Elsevier Holland, 1995) p. 2042.
18 W.B. Wriston, n. 5.
19 M. Waibel, n. 2 p. 7.
20 *Ibid.*
21 *Ibid.*

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or internal debt that exceeds its Gross Domestic Product (GDP) significantly, it would be impracticable to settle its debt obligation using tax revenue. For instance, Iceland with a population of 300,000 has an external debt of about 300% of its GDP and the public debt is about 125% of it GDP as at 2010.[22] Also the debt of Icelandic financial institutions is considered to be nine times the size of its GDP.[23] The International Monetary Fund (IMF) projection is that unemployment rate would increase to about 9.7% in Iceland.[24] This gives rise to the following question: How much can Iceland tax its citizens to repay her debt bearing in mind the increasing unemployment rate and limited fiscal capacity? By analogy, it is clear that Iceland cannot rely on 300,000 inhabitants to generate tax to settle its debt obligations and the decision of the government not to bail out its banks, even though it wished to do so, can be taken as inability to pay its debt, which means Iceland was practically bankrupt.

Also there is a limit to the amount of revenue a government can generate through tax. According to Waibel, 'as the marginal tax rates increase, tax yields decline at some point' because some taxpayers will move to other jurisdictions and the propensity to evade tax increases.[25] Even when a country succeeds in achieving a stable tax regime most debt obligations, unlike the country itself, do not exist forever.[26] All debt obligations have a specific time frame for repayment.

In addition, relying on tax revenue for settlement of debt obligations can be very risky because the productivity of the people (if it exists) can disappear due to a collapse of the educational system or disease ravaging its human capital, or a natural disaster destroying the country's infrastructure.[27] Furthermore, an increase in tax goes hand in hand with demand for improved public services. If there is an increase in tax and the government fails to provide improved essential services, its people are likely to revolt. For instance, in Argentina when President De la Rúa responded to the growing debt by enacting three large tax reforms, the people revolted and tax increase is considered to have stifled the economy recovery.[28]

From the above, one may reasonably argue that there is a limit to which a government can rely on tax to pay its debt and when tax is generated, it cannot be solely for the repayment of the government debts because the government also requires money to run the affairs of state, and all debts have to repaid within a specific time frame.

2.2 Confiscation of assets

In addition to taxing citizens, confiscation of assets is another solution put forward by Walter Wriston to avoid the bankruptcy of a sovereign state. Although historically this has happened in Argentina in 2001 when the entire dollar reserves of banks were seized and the deposits of citizens were frozen,[29] it amounted to infringement of property right and discouraged savings among citizens.[30]

Confiscation of assets as a means of meeting debt obligations will only trigger 'capital flight' from the country and legal suits for compensation, thereby defeating the initial aim of trying to raise finance.[31]

In addition, confiscation of assets is a very limited option because it applies only to citizens within the country, since governments lack the capacity to confiscate private citizens' property abroad.[32] For instance, in 2001 when Argentina defaulted on USD 140 billion external debt it is estimated that the assets held by its citizens abroad was between USD 120 billion and USD 150 billion.[33] This example clearly illustrates the limitation of confiscation of assets as a measure of paying debt obligations. However, an exception to this theory of confiscation is when such confiscation is done to recover assets resulting from fraud or economic crimes.[34]

2.3 Disposal of assets and territory

In comparison to corporate or personal bankruptcy, it would be a poor test to determine bankruptcy of a country by considering whether the assets of the state exceed

Notes

22 IMF Country Report No.10/305 on Iceland (2010) available at <http://www.imf.org/external/pubs/ft/scr/2010/cr10305.pdf> accessed 3 April 2011.
23 M. Waibel, n. 2 p. 7.
24 IMF Country Report, n. 22 p. 27.
25 M. Waibel, n. 2 p. 8.
26 *Ibid.*
27 R. Buckley, 'The Bankruptcy of Nations: Let the Law Reflect Reality' (2009) University of South Wales Research Series. Working Paper No. 20 available at <law.bepress.com/unswwps/flrps09/art20> accessed 3 April 2011.
28 K. Schuler, 'Fixing Argentina' (2002) Cato Institute Policy Analysis No.445 available at <www.ciaonet.org/wps/sck04/index.html> accessed 3 April 2011 p. 4.
29 *Ibid.*, p. 9.
30 *Ibid.*
31 M. Waibel, n. 2 p. 9.
32 C.M. Reinhart, K.S. Rogoff and M.S. Savanstano, 'Debt Intolerance' (2003) NBER Working Paper No. 9908 p. 11.
33 *Ibid.*
34 M. Waibel, n. 2 p. 9.

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it liabilities.[35] The normal legal test, that a country 'cannot service its debts as they fall due is the right test to apply' because most national assets are not saleable.[36]

Disposal of national assets or treasures for the payment of debts is prohibited by most modern conventions and most sovereigns will not be willing to sell their assets to pay off debts.[37] However where a country succeeds in selling its assets, the chance of using the proceeds to pay off its debts is minimal. For example, Russia in 1930 sold some of its art treasures to foreigners but did not contemplate using the proceeds to repay its Tsarist debt.[38]

Another argument put forward by some authors is that a country can sell part of its territory to pay its debts. Although this has happened in the past when in 1867 Russia sold its territory of Alaska to the United States for USD 7.2 million,[39] it remains uncertain whether any sovereign state will consider selling part of its territory as a viable option for settlement of debt obligation under the present system of international law where the sovereignty and territorial boundaries of States are jealously guarded.

2.4 Monetisation of domestic debts

One line of argument not considered by Walter Wriston but referred to by some modern authors such as Philip Wood is the distinction between foreign and domestic debt obligations. Under this distinction, a state's inability to pay its debt relates to its foreign currency obligations and not to its domestic debt obligations because it has control over its currency therefore can settle its domestic debt obligation.[40] According to Wood, 'a state need never be bankrupt by reason of liabilities because it can create its own currency. However, the adverse consequence would be inflation'.[41]

Although it is possible for States to meet domestic debt obligations by 'inflating them' out of such debt. There are limits to which a state can 'monetise its debt'[42] because of the adverse consequence of inflation. For instance, countries such as Turkey, Nigeria and Russia have defaulted on their local currency obligations.[43]

Also, most authors have failed to consider situations where countries are under an 'optimum currency area' (OCA) like the European Union. A member of the European Monetary Union (EMU) has no 'monetary independence' (ability to print money) and power to fix interest rate because under the monetary policy of the EU this power has been delegated to the European Central Bank (ECB).[44] This gives rise to the following question: how can countries within the EU that have domestic debt obligations and have no control over their currency and interest rate 'monetise their debt'? Among these countries, Greece has debt obligations of which 95% are domestic debts,[45] but printing money to buy its way out of debt is not an option because it has no autonomy over its monetary policy and currency.

Although it is argued that most sovereigns have 'all or a significant part of their debt denominated in foreign currency' which is usually referred to as 'original sin of sovereign borrowing',[46] the above explanation clearly shows an exception to the argument that sovereigns cannot be bankrupt on domestic debts since it can prints its currency and pay off the debts.

Additionally, it is argued that governments have a different measure of cutting down expenditures to achieve surplus and with less spending and a normal economic growth it is assumed that sovereigns can outgrow their debt.[47]

This view is unsustainable based on the fact that governments will still have to provide essential public services even when they are facing financial difficulties. Therefore there is a limit to how much a government can cut down expenditure because 'expenditure cuts will only depress the level of economic activity' which would result to lower tax revenue.[48]

Notes

35 R. Buckley, n. 25.
36 *Ibid.*
37 C.M. Reinhart and K.S. Rogoff, n. 9 p. 52.
38 *Ibid.*, p. 397.
39 R. Olivares-Caminal, 'Sovereign Debt Default: Paradigm and Challenges'(2010) 11 *Journal of Banking Regulation* 91 at p. 93.
40 P. Wood, n. 16 p. 756.
41 *Ibid.*
42 N. Dodd, 'Money, Law, Sovereignty: Where does the Crisis Leave the State' (2010) Paper presented at European Standing Group on International Relations Conference Stockholm available at <stockholm.sgir.eu/uploads/Dodd%20for%20SGIR%202010.pdf> accessed 3 April 2011, p. 7.
43 P. Wood, n. 16 p. 756.
44 I. Kokkoros, R. Olivares-Camina and K. Papadakis, 'The Greek Tragedy: Is there a Deus ex Machina?' (2010) 7 *International Corporate Rescue* 213 at p. 214.
45 N. Roubini, 'Greece's Best Option is an Early Default' (2010) *Financial Times* available at <www.ft.com/cms/s/0/a3874e80-82e8-11df-8b15-00144feabdc0.html#axzz1JyMuPQmk> accessed 3 April 2011.
46 O. Jeanne, '"Original Sin", Balance Sheet Crisis and the Roles of International Lending' (2002) IMF Working Paper WP/02/234 available at <www.imf.org/external/pubs/ft/wp/2002/wp02234.pdf> accessed 3 April 2011.
47 M. Waibel, n. 2 p. 7.
48 *Ibid.*

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From the above discussions, it is apparent that the reasons put forward by Walter Wriston are not totally correct. The practical situations discussed above clearly contradict his arguments. He made this statement primarily to encourage advancement of loans to developing countries in the early part of 1980s. Current policy makers like Wolfang Shauble, and Adam Smith as far back as 1920, clearly acknowledge that it is possible for sovereigns to go bankrupt.

However Wriston is correct to an extent on the grounds that bankruptcy must be viewed from a legal perspective. As far as there is no legal mechanism for declaring countries bankrupt, then legally speaking countries can only 'be broke and not bankrupt'. This next section intends to identify some legal difficulties in applying principles of bankruptcy to sovereigns.

3. The state and the principle of bankruptcy

In comparison to corporate insolvency, there are practical and political difficulties which exist that make it difficult to apply the principles of bankruptcy to a country and if bankruptcy is to be viewed from the way it has been applied to corporate entities, it is unclear how it can apply to sovereigns bearing in mind some of the issues which will be discussed below.

3.1 Lack of legal mechanism

The word bankruptcy is a legal construct and in contrast to corporate or personal bankruptcy rules, there are no rules or regulations in place to deal with sovereign bankruptcy.[49] For instance, in the United States, the Chapter 9 Bankruptcy Code deals with reorganisation of municipalities. The absence of any formal legal rules makes it impossible for a country to file for bankruptcy or for any court to apply bankruptcy rules to a sovereign.[50] According to Buckley, 'until we have an international bankruptcy regime administered by court or arbitral tribunal, nations can only be broke and not bankrupt'.[51] Therefore legally speaking, countries do not go bankrupt due to the lack of legal mechanisms to declare sovereigns bankrupt.

In 2001, the IMF proposed a Sovereign Debt Restructuring Mechanism to prevent or help sovereign states with unsustainable debt burdens to reorganise their finances, to restore debt payments and to ensure a uniform and predicable approach in dealing with issues of sovereign bankruptcy. Ten years after making this proposal, it remains 'shelved' with the IMF and yet to take effect. The proposal has come under criticism by some advocates who call for limited or no reform because they believe the market is capable of resolving debt issues itself.[52]

From the above discussion, it is apparent that the lack of implementation of the Sovereign Debt Restructuring Mechanism has left the world with no formal mechanism for dealing with sovereign bankruptcy, rather the issue of sovereign default has left creditors with only two alternatives: either to enter into renegotiation of the terms of the loan with the debtor, or pursue legal remedies in the court of law which in most cases is difficult to enforce.

3.2 State immunity and enforcement of judgement

Previously, under international law, states enjoyed absolute immunity but due to the increase of states involvement in commercial activities there was a move away from the absolute immunity of states towards a more restrictive approach. The restriction seeks to distinguish between acts of states which are *jure imperii* and *jure gestionis*. When the acts of State are *jure gestionis* (act in commercial matter) they no longer enjoy absolute immunity.[53] The absolute immunity enjoyed by states towards commercial transactions has been removed by statute and under current practice, most loan contracts entered into by states contain a waiver of immunities thereby giving creditors a right to pursue legal remedies when a sovereign defaults on a debt obligation.[54] However, the issue of enforcement remains a challenge.

Creditors can usually enforce that judgement by executing it on property (i) within the debtors' territory, or (ii) in a foreign country.[55] However, compared to corporate bankruptcy, enforcement of that judgement tends to be almost impossible because most States do not have assets in foreign jurisdictions and where those assets exist, they enjoy a certain degree of immunity.[56] Where the assets are protected, they quickly repatriate them to make enforcement of judgement

Notes

49 R. Buckley, n. 27 p. 4.
50 *Ibid.*
51 *Ibid.*
52 *Ibid.*
53 See *Compania Naviera Vascongada v S.S Cristiana* (1938) AC 485, See also *Trendtex Trading Corporation Ltd v Central Bank of Nigeria* (1977) QB 529. UK State Immunity Act, 1978. See also U.S. Foreign Sovereign Immunities Act of 1976.
54 ILA Study Group, n. 1 p. 21.
55 *Ibid.*
56 *Ibid.*

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difficult.[57] This gives rise to the following question: what is the significance of a judgment when it is not enforceable?

Although it may be argued that in the case of *Elliot Associates v Banco De La Nacion and Republic Peru*[58] the plaintiff was successful in obtaining a judgement against Peru in a US court and enforcing it in Brussels by interrupting payment to Peru bondholders. According to Krueger it is unclear whether such technique will survive in future cases.[59] For instance this technique met resistance in the case of *Macrotecnic International Corporation v Argentina* where the court precluded the plaintiff from interfering in Argentina's payment to other creditors.[60]

3.3 Monetary sovereignty

States that have control over their currency can print money to settle their debt obligations provided the debt is in domestic currency. However they stand the risk of inflation in their economies.[61] This power in not applicable if it is a foreign currency debt or where the state has no control over its currency as a result of belonging to 'optimum currency area' like the EU.

These legal rights over currency and interest rates give the state the power to settle its domestic debt obligations thereby making it difficult to declare a state bankrupt.

3.4 Control post insolvency

In contrast to private sector insolvency where there is an appointment of an administrator after insolvency proceedings have commenced, 'the affairs of a country cannot be taken over and managed by a receiver, trustee in bankruptcy, judicial manager or other representatives of the creditors'.[62] Therefore the debtor country will continue to remain in possession.

However, historically there has been intervention in the financial administration of insolvent states. For instance, in 1870 when Egypt had problems repaying its debt, the British and French governments created a commission to control Egypt's finance to ensure repayment of its debts.[63] When the measure proved inadequate, the British government invaded Egypt and ran the place itself.[64] However it is important to note that direct intervention is no longer a viable option because it amount to violating the sovereignty of a state and principles of international law.

3.5 Odious debt

The doctrine of odious debt refers to creditors giving money to dictators or corrupt government whihc is not intended to be repaid.[65] Under the odious debt the amount of debt or the ability of the debtor to pay its debt is irrelevant. The basic issue is the manner in which the debt is incurred.[66] Usually, the debt is unenforceable and the government may repudiate it if:[67]

1. the people did not consent;
2. the people did not benefit from the debt;
3. the creditor at point of lending is aware that the people are not going to benefit and their consent was not granted.

Although no national court or international tribunal has ever cancelled a sovereign debt on the grounds of odious debt history clearly shows that this is possible. For instance, Great Britain did not liquidate the War Bonds of the Boer Republic.[68] Also, the United States did not repatriate Spanish national debt on the independence of Cuba in 1898 on the 'ground that it was contracted largely in the interest of Spanish colonisation'[69] and in 2002 the issue was brought to the forefront of international law with respect to Iraqi debt incurred by the regime of Saddam Hussein. However, nations are sceptical of invoking odious debts because the consequences are similar to that of debt repudiation.[70]

Notes

57 R. Olivares-Caminal, n. 39 p. 93.
58 *Elliot Associates v Banco De La Nacion* (2000) 194 FRD 116.
59 Anne Krueger, 'Should countries like Argentina be able to declare themselves bankrupt?' (2002) available at <www.imf.org/external/np/vc/2002/011802.htm> accessed 3 April 2011.
60 *Macrotecnic International Corporation v Republic of Argentina* (2004) District Court S.D.N.Y.
61 ILA Study Group, n. 1 p. 22.
62 *Ibid.*, p. 24.
63 A Beattie, 'State of Bankruptcy' (2010) *Financial Times* <www.ft.com/cms/s/0/eb17ce68-9d97-11df-a37c-00144feab49a.html#axzz1ITpiKIvQ> accessed 3 April 2011.
64 *Ibid.*
65 C.M. Reinhart and K.S. Rogoff, n. 9 p. 63.
66 A. Gelpern, 'What Iraq and Argentina Might Learn from Each Other' (2005) 6 *Chicago Journal of International Law* 391 at p. 403.
67 A. Chander, 'Odious Securitization' (2004) 53 *Emory Law Journal* 923 .
68 P.R. Wood, n. 15.
69 *Ibid.*
70 A. Gelpern, n. 65.

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From the discussion above, it is important to emphasise that since there is no legal mechanism for dealing with sovereign bankruptcy, countries can only be 'broke and not bankrupt'. In addition, applying existing principles of bankruptcy to a state is impracticable based on the issues raised above, therefore legally speaking countries cannot be bankrupt.

4. Conclusion

Walter Wriston was right legally speaking because the word bankruptcy is a legal construct and must be viewed as such. Where there is no legal mechanism for declaring a sovereign bankrupt they can only be 'broke and not bankrupt'.

However, there exist practical situations that contradict Walter Wriston's reasons why countries cannot go bankrupt. Some of these are: depreciation in value of natural resources, a limit to government revenue through taxation and the nation's productivity and infrastructure, if they exist, can disappear or be destroyed. Therefore, legally, sovereigns do not go bankrupt, but practically it is possible for them to do so.

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International Corporate Rescue

International Corporate Rescue addresses the most relevant issues in the topical area of insolvency and corporate rescue law and practice. The journal encompasses within its scope banking and financial services, company and insolvency law from an international perspective. It is broad enough to cover industry perspectives, yet specialized enough to provide in-depth analysis to practitioners facing these issues on a day-to-day basis. The coverage and analysis published in the journal is truly international and reaches the key jurisdictions where there is corporate rescue activity within core regions of North and South America, UK, Europe Austral Asia and Asia.

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