

How to Resist Vulture Funds and Financial Imperialism?

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Speech delivered at the International Seminar on “Alternatives to financial imperialism and vulture funds” held in Caracas (Venezuela), on 12th August 2014 |1|

Panel moderator: Dr. Eric Toussaint has come from Belgium to be with us today. Born in Namur (Belgium) in 1954, with a PhD in Political Sciences, he is a historian, economist, political scientist, a member of the Presidential Commission of Integral Audit of Public Credit (CAIC) in Ecuador, a member of the International Secretariat of the Fourth international, the President of the CADTM (Committee for the Abolition of Third World Debt), and a senior lecturer at the University of Liège (Belgium).

Let me start with vulture funds. I believe they are an extreme version of finance capitalism. An extreme version, that is to say that they are the vanguard, followed by troops called Goldman Sachs, Santander, JP Morgan, BBVA, Citibank, etc.

Judge Griesa’s verdict rolled back Latin America’s wheels to the late 19th and early 20th century, a time when the US and other creditors could directly intervene in order to enforce debt repayment. Therefore, it was extremely challenging for the organizers to include the Drago Doctrine Argentine Foreign Minister Luis María Drago formulated the Drago doctrine in 1902. It was a response to the intervention of the UK, Germany and Italy, that had blocked and bombarded ports after President Cipriano Castro refused to pay Venezuela’s immense external debts. Despite the Monroe Doctrine’s stipulations, the US refused to defend Venezuela, on the grounds that it was not warranted in this case, vis-à-vis the refusal to pay debts. The Drago doctrine |2| on this forum’s agenda as an alternative. It is an important issue indeed. What is the Drago Doctrine? The Foreign Affairs Minister Elías Jaua has already mentioned and highlighted Drago’s contribution during Venezuela’s conflict with its creditors in 1902. |3|

In fact, there are two doctrines: the Drago Doctrine and the Calvo Doctrine |4|, both named after Argentine jurists. Calvo, who issued the first doctrine, held that in case of conflict with foreign investors, Latin American countries should resort to their national jurisdiction and that they cannot transfer the jurisdiction for legal settlements to the US or other countries.

Drago, Argentine foreign minister in 1902, partly adopted the Calvo Doctrine and added that military forces could not be used for collection of payments against external debt. At that time, this led to a diplomatic debate because, obviously, the US strongly opposed both Drago’s and Calvo’s doctrines. However, during the 1920s and 30s the Latin American countries adopted and incorporated elements of the Drago and Calvo Doctrines in their

national constitutions.

Since the 1980s, however, these doctrines have had limited applications throughout the subcontinent under the pressure of the neoliberal offensive. For example, while the Argentine constitution clearly incorporated the Calvo and Drago Doctrines, in practice, Argentina relinquished its sovereignty and immunity in the contracts for transferring debt securities after the military dictatorship of 1976. Since then it has allowed the US jurisdiction to solve disputes.

Certainly we must condemn judge Griesa's ruling. We must condemn the interference of the US and the judge in Argentine issues, but the Latin American countries should implement the Calvo and Drago doctrines in order to counter this interference. Therefore, when the Latin American countries float securities, they must specify in the contract that the local and national jurisdiction will be the competent authority in case of litigations. This is a fundamental issue and the first step towards confronting the current situation and preventing the spread of similar offensives against other Latin American countries.

As for alternatives, I think it is equally important to convince other Latin American countries to follow the examples of Bolivia, Venezuela and Ecuador, who have decided to withdraw from ICSID, the court of the World Bank. [\[5\]](#) These three governments, with Bolivia at the helm since 2008, decided not to further participate in the World Bank tribunal for the settlement of investment disputes. If Argentina decides likewise, it would be an excellent signal for Latin America. Brazil does not recognize the ICSID's jurisdiction either and is perhaps the only Latin American country which in line with its status as regional superpower most convincingly asserts its sovereignty and actually signs very few treaties that allow the transfer of its sovereignty to other jurisdictions.

Besides, as Luis Bilbao [\[6\]](#) has pointed out, vulture funds compel us to address the issue of external debt, which is mostly illegitimate anyway.

A part of Argentina's present debt is inherited from the military junta's debts contracted between 1976 and 1983. It is a legacy of Carlos Menem's loans in the 1990s when he enforced a brutal neoliberal policy. It is inherited from the "mega-exchange" of debt securities (*Megacanje*) organized in 2001 by Domingo Cavallo, Minister of Economy in the De La Rúa Government, which fell under pressure from the street (... "*de la rúa*") in December 2001.

How did Rodríguez Saá, interim President for one week, act during the last week of December 2001? He decided to unilaterally suspend debt payment and said, if I remember correctly, "until we have total employment in the country, I am suspending debt repayment."

Between 2001 and 2005 Argentina suspended payment of its commercial debt for a sum of about \$90 billion. This measure helped Argentina improve its economic level, taking advantage of the increase in export prices. Since 2003 it has been able to invest in economic development and to fully recover.

While the process of debt restructuring started in 2005 and consisting of an exchange of securities led to a significant debt reduction, Argentina simultaneously signed new contracts in which it accepted transfer of its legal sovereignty and waived immunity. In 2010 Argentina re-opened its debt exchange programme on the same basis.

So, of course, we are denouncing vulture funds, but we must be aware that our enemies will take advantage of our mistakes. They can eventually impose their interests with the help of these strategic or tactical errors.

Let me come back to the debt issue since it has been converted into a powerful instrument for subordinating the Latin American people. An instrument, which in the coming years will focus on promoting neo-liberal policies as is currently the case in Europe. Indeed Europe is currently the epicenter of the offensive of capital against labor, of creditors against the indebted.

I think we should not dismiss the possibility of an outbreak of a new external debt crisis in the coming years. This can affect Latin America for two reasons. First, the US will hike interest rates internationally. It has already been decided, they have announced it. Now they are advancing step by step: if interest rates are very low for the time being, they will go up in the future, that's for sure. Then there is the question of a drop in raw material prices. This issue deserves consideration too. An increase in international interest rates combined with a plunge in export prices of oil, soybeans (for Argentina), minerals, etc., may, as in the eighties, leave Latin America in the vicious circle of public debt. I think we must combine different strategies to avoid this trap. From here we move to alternatives.

History shows that a country can protect the interests of its people through unilateral sovereign acts based on international law.

This takes us back to the 19th century. In 1861 Benito Juárez of Zapotec origin – the first indigenous Latin American president – decided as President of Mexico to suspend debt payment to France and London. A French military invasion followed and Emperor Maximilian was crowned, later to be ousted by the Mexican people's resistance and Benito Juárez's victory. In 1867, the Mexican army which won against France executed this emperor that Napoleon III had set up.

Also to remind you, since I am dabbling in history here, that Karl Marx wrote (in 1867) in Capital Volume I, Chapter 31:-

“National debts, i.e., the alienation of the state – whether despotic, constitutional or republican – marked with its stamp the capitalistic era...The public debt becomes one of the most powerful levers of primitive accumulation...With the national debt arose an international credit system, which often conceals one of the sources of primitive accumulation in this or that people.” [7]

Let's go back to public debt, which is likely to be used as an instrument of domination in the coming years.

Let's look at the 20th century now. Remember that at the beginning of the Mexican Revolution in 1914, default in debt payment was one of the first decisions of Emiliano Zapata and Pancho Villa. Mexico suspended debt payments between 1914 and 1942 and managed to persuade its creditors to grant a 90% waiver in its debts as of 1914, that is to say, the arrears of interest were not considered. [8] It was an absolute victory that demonstrates the importance of a unilateral sovereign act against creditors.

During the 1930s, 14 Latin American countries suspended their foreign debt payment,

including Cuba (1933) and Getulio Vargas' Brazil (1933) where a debt audit was organized resulting in a 60% waiver in 1943 through debt restructuring. [|9|](#)

If we compare countries that suspended their debt payment in the 1930s to those which continued payments, we will see that the former experienced a stronger growth, despite reprisals.

Let me cite the recent case of Ecuador. I have been part of the Commission of Integral Audit of Public Debt (CIAC) formed in 2007 by President Rafael Correa. [|10|](#) It involved 18 people – 12 Ecuadorians and 6 international representatives including Alejandro Olmos Gaona from Argentina. This Commission analyzed Ecuador's debt (1976-2006) for 14 months and then submitted its findings to the government of Rafael Correa, [|11|](#) which, in November 2008, unilaterally suspended payment of a portion of its commercial debt. Correa had the resources to pay but said- "It is an illegitimate debt, there is no justification for repaying an illegitimate debt". The results of the debt audit helped him to persuade creditors to grant a 70% reduction in June 2009. We can clearly see the difference between Argentina's decisions taken in the 2000s and Ecuador's decisions for an audit which led to a repurchase (not an exchange) of bonds at 30 cents to the dollar. Under such circumstances it was impossible to sue Ecuador in the US courts since the securities no longer existed. No exchange had taken place. We can draw important lessons from Ecuador's example. [|12|](#) Third example: as I said earlier, Europe has recently become the epicenter of a brutal neoliberal capitalist assault. Greece's current situation is similar to that of Latin American and Asian countries during 1980-90. It is ruled by the decisions made by the IMF and creditors.

Iceland's case is little known, both in Europe and in the rest of the world. Its banking system totally collapsed in 2008, in the wake of Ecuador's in 1999. A strong popular mobilization led Iceland to stop servicing its external debt to the UK and the Netherlands. The UK raised a great hue and cry against the unilateral decision of nonpayment, classified Iceland as a terrorist country on a par with Al Qaeda and froze its assets in the UK. Yet, popular resistance and two referendums have so far prevented the government from paying its debt to the UK and the Netherlands. As a result of this unilateral sovereign act, Iceland has known a stronger economic growth than any other European country. We can compare Iceland, which disobeyed creditors, and Greece, which accepted the domination of creditors and ended up with a 20% plunge in GDP, comparable to the Argentine situation between 1999 and late 2001-early 2002.

That countries can rightfully take unilateral sovereign actions is in itself a strong argument.

If we expect international law courts to agree with Venezuela, Argentina, Ecuador, we are dreaming of a world that has yet to come. We must take unilateral sovereign actions. This happens in the US all the time where unilateral sovereign actions are taken every day, for the wrong reasons: the embargo against Cuba and support for Israel, for example. Israel's unilateral sovereign acts have snowballed in a near wipeout of the Palestine people. Still nothing is happening ...

Why not act in a sovereign and unilateral manner, not forgetting the arguments of international law, in order to respect the social debt towards peoples and simultaneously speed up the Bank of the South's launch in Latin America, control the movement of capital where it is entirely unchecked, maintain or implement exchange controls, nationalize private banking, establish public monopoly over foreign trade.

Luis Bilbao concluded by saying that there can be no solution without a socialist revolution and programme. These are part of the transitional demands for Socialism. We should go beyond rhetoric to denounce imperialism and vulture funds. We should look for ways to integrate peoples; follow the path of Hugo Chavez when he called for a Bank of the South, integration of the peoples, and other mechanisms for integration to champion human rights.

Thank you for your time and attention.

Translated by Suchandra De Sarkar in collaboration with Christine Pagnouille

Notes

[1] Speakers in this international seminar included Delcy Rodríguez, Minister of Communication and Information; Elías Jaua, Minister of Foreign Affairs of the Bolivarian Republic of Venezuela; Carlos Cheppi, Argentina's ambassador to Venezuela; Eric Toussaint, CADTM; Luis Bilbao, Revista America XXI, Argentina, ... Introduction by Delcy Rodriguez <http://www.youtube.com/watch?v=KRNe...> Video recording of Eric Toussaint's speech <http://cadtm.org/Alternativas-al-im...> See also <http://cadtm.org/El-historiador-bel...>

[2] countered this by stating that no foreign country could collect debt payments forcefully. The Drago doctrine is based on the Calvo doctrine but the two should not be confused

[3] See Elías Jaua Milano, "Fondos buitres, la barbarie capitalista available in Spanish at <http://cadtm.org/Fondos-buitres-la-...>

[4] The Calvo Doctrine, named after Carlos Calvo (1824-1906), is a doctrine of international law which states that people living in a foreign country must file their pleas, complaints and grievances to the jurisdiction of local courts without calling for diplomatic pressure or military intervention. Appeals should be made to international diplomatic channels only when all local legal avenues are exhausted. Several Latin American countries have incorporated this doctrine in their constitutions.

[5] ICSID: International Centre for Settlement of Investment Disputes.

[6] Luis Bilbao's speech <http://www.luis-bilbao.com.ar/2014/...>

[7] <https://www.marxists.org/archive/ma...>

[8] See Eric Toussaint, "Mexique : le scandale silencieux de la dette extérieure et du modèle néolibéral", July 2002, available in French at <http://cadtm.org/Mexique-le-scandal...>

[9] See Eric Toussaint, "Retour dans le passé: mise en perspective des crises de la dette" in La bourse ou la vie. La Finance contre les peuples, joint publication from CADTM-Syllepse-Cetim, 2004.

[10] See Eric Toussaint, "An III de la révolution citoyenne en Equateur", published on 22nd October, 2009, available in French at <http://cadtm.org/An-III-de-la-revol...>

[11] Spanish and English versions of CIAC's final report can be downloaded in pdf format from <http://www.auditoriadeuda.org.ec/in...>

[12] See Eric Toussaint, "Les leçons de l'Équateur pour l'annulation de la dette illégitime", published on 29th May 2013 in French, <http://cadtm.org/Les-lecons-de-l-Eq...> video version is available here: <http://cadtm.org/Les-lecons-de-l-Eq...>

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