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gLAWcal **#207**
COMMENT

**STATE OF NECESSITY AND SOVEREIGN
INSOLVENCY**

Based on

**Vassilis Paliouras “State of Necessity
and Sovereign Insolvency”**



gLAWcal
Global Law Initiatives for Sustainable Development



Routledge
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A gLAWcal comment on Vassilis Paliouras "State of Necessity and Sovereign Insolvency" in Antonio Segura Serrano (Ed.) "The Reform of International Economic Governance".

International law remains surprisingly underdeveloped in the field of sovereign insolvency. International investment agreements may offer causes of actions to creditors, but up until today liability on that ground remains uncharted territory.

How does the condition of "state of necessity" relates to sovereign insolvency and sovereign debt law? Indeed, in this context, the possibility of a State successfully invoking necessity could frustrate the attempts of its creditors to enforce their contractual rights before international and domestic courts. As it is clear, this possibility opens the door of abuse on the part of the sovereign debtor that could seek relief from its liability in cases of opportunistic defaults. It is argued that the general international law defence of necessity poses a very high threshold of satisfaction for debtor States seeking to invoke it in cases of insolvency - at this is nothing but surprising. On the other hand, from a broader, policy perspective, necessity is a rather incomplete tool in dealing with sovereign insolvency. As the Author notes, necessity could merely function as a rescheduling of the sovereign's obligations, whereas what will be likely needed to restore solvency will be drastic debt reduction. Overall, a greater clarity in the rules is needed: indeed, in-



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To influence policymakers, to raise awareness over Non Trade Concerns, to encourage stakeholder participation, and to disseminate gLAWcal’s publication results.



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