The evening began with opening remarks by Eric LeCompte, ED of Jubilee USA. Eric mentioned the IMF’s latest series of papers relating to holdouts and predatory behaviors as well as the UN vote to begin a dialogue on creating a framework for a global bankruptcy process.

Skylar Brooks, Research Associate at the Global Economy Program at CIGI, gave an overview of the Sovereign Debt Issues Paper. The paper discusses sovereign debt in a historic context and provides a clear, succinct, and objective overview of the new proposals. It is relevant as the Eurozone crisis catalyzed the debate on sovereign debt, as Ghana and Ukraine are experiencing increasingly troubling situations, and as debt levels are rising in Africa, remain high in Europe, and are at a 200-year high point in advanced economies. The paper asks: What do we do about this crisis? What type of reform is needed?

Solutions need to address the following issues:
- Coordination problems – efficiency/deadweight losses
- Collective action problems among creditors and between creditors and debtors
- Expectations that the IMF will bail out creditors
- Human error – overly optimistic assessments, political pressures in different countries

The Argentina legal ruling reinforced and questioned the idea that sovereign debt must always be paid back in full. It has led to interesting proposals for how to reform the international debt architecture and debt contract processes. The proposals mostly fall on either side of the dichotomy between a contractual approach and a statutory approach, but there has also been talk of an arbitration process where the IMF would play a role.

The IMF proposal to reprofile debt in cases of genuine improbability and offer the possibility of a sovereign debt forum. There are also discussions on sovereign cocos, or “contingent convertibles”.

ICMA published revised collective action clauses and a new standard pari passu clause to avoid the Argentina case as part of a long-term solution since the majority of contracts do not contain such clauses.

The proposal come from civil society organizations, the IMF, and think tanks.

Eric addresses the UN vote in September: The UN is seen as an institution where every participant has an equal vote. What ultimately passed was very weak. The proposed resolution initially called for a
convention process that would grant full participation to countries voting in favor and no participation for countries voting against. In actuality, the vote was an agreement to talk about such a process, which is good for bringing in more countries on board but is not binding, especially if the 11 countries that voted “no” are the ones that possess the most wealth.

**Ezra Sumura, Chairman of Uganda Debt Network**, shared his perspectives as a person from Uganda. In the 1970s and 1980s, Uganda was committed to getting rid of its debt, but by the 1980s and 1990s, the country was finding it hard to cope with its economic situation as both capacity and exports were decreasing. Uganda qualified for debt relief under the HIPC initiative, but by the end of the 1990s, it remained in debt. However, from 2005 to 2009, debt forgiveness contributed to a 9% growth rate in Uganda. Since then, African economies have shown higher growth and greater ambition in infrastructure and energy, receiving some financial support from the World Bank, none from the West, and most from the East, specifically China. Uganda borrows from China at an interest rate of less than 4% and has not defaulted on Chinese loans. At the same time, debt continues to rise rapidly and seems likely to bring the countries back to their situations in the 1990s.

Uganda and other African countries still ask what will happen if they experience difficulty in restructuring. It is unclear what will happen if crises come. The IMF, the Paris Club, and the World Bank are not in a position to bail them out, so these countries are exercising caution. Uganda recognizes its oil as a major asset in paying loans.

**Geoffrey Chongo from the Jesuit Center of Theological Reflection in Zambia**, said the Zambian experience with debt was similar to Uganda’s. Ninety percent of Zambia’s debt had been canceled, but after debt forgiveness, organizations fighting for debt relief became irrelevant, and Zambia’s debt has doubled in the last two to three years. Most of its debt is owed to the international market.

The main concerns Geoffrey identified were the rate of debt accumulation and the lack of accountability and transparency for how the government spends money. The executive holds too much power and needs to share more power with Parliament.

**Thoughts/Ideas/Feedback from participants**
An open discussion followed presentations. Participants raised new issues and questions, as well as identified challenges to restructuring sovereign debt.

**Unclear Solutions:**
- **ICMA proposal** – part of which addresses problems with collective action clauses (CACs). Instead of a series of CACs, there should be a collective action clause for the universe of existing bonds to prevent vulture funds from interfering with successful debt restructuring.
- **IMF’s recent proposals** – part of which suggests “debt reprofiling”
- **Kazakhstan new “post-Argentina” bond contracts** – will they deter lawsuits by holdouts?
- **HIPC and Paris Club are not options for the future** since developing countries are relying more on capital markets to finance development.

- **UK Debt Relief Act** – recent law that sets a cap on how much creditors can recover from HIPC countries. Since then, no more lawsuits from holdouts.
  - Could similar laws in New York and other jurisdictions help?

- **Can countries issue their bonds under domestic laws?** It is unlikely that investors will purchase such bonds. How can market confidence be changed?
  - Greece issued bonds under domestic law, but following debt crises their bonds are now under English/UK law.

- **Coordination between creditors and debtors is suboptimal**, especially after debt stress arises. Coordination needs to begin before debt stress/default manifest. Are there any guidelines or standards for such communication between creditors and borrowers? Would this help?

- If there was an international agreement to establish an arbitration process for insolvency, **which institution would host and coordinate the arbitration process?** IMF? UN? New body? How would the responsible institution be accountable?
  - Participants suggested that the UN would be ideal, but express doubts about key players empowering the UN as arbitrating body. Participants mostly shared the view the IMF would be the more likely institution, but expressed concern about the voice of developing countries in IMF decision-making.
  - UN conventions all start as “coalitions of the willing” and move forward slowly (such as Convention on Human Rights, Climate Change or Biodiversity). With strong and sustained support for the UN proposal, it is possible that a process with “teeth” emerges.

- **GDP-linked bonds** offer an innovative way to make debt payments more flexible, but there are **problems** too:
  - GDP may not be a reliable indicator of government capacity to service debt; in developing countries, GDP growth and tax revenue that governments receive (and use to pay external debt) are not parallels. This is partly due to tax exemptions and tax avoidance practices that capitalize on low capacity of tax administrations.
  - Alternative - Bonds linked to tax revenue as percentage of GDP?

**Recommendations:**

- **Need an early warning system** in place to anticipate debt insolvencies – monitoring commodity prices, changes in demand (ie China growth slowing). What are the consequences of IMF projections?

- We need to identify the **lessons learned from Multilateral Debt Relief Initiative (MDRI) and HIPC.**
• There needs to a set of agreed criteria to assess proposals for restructuring sovereign debt
• **In principle, every investment entails a risk.** This should be no different for sovereign debt. Any restructuring process should reflect this.
• Countries should issue bonds under domestic law as soon as possible.
• There needs to be greater clarification of statutory approaches. There seems to be different interpretations of “statutory” depending on regional and country context.
  o **Sovereign CoCos – this needs to be explained in greater detail.**
    ▪ Examples, such GDP-linked bonds need to be extrapolated.
• Explain the **champerty clause** and its relevance or significance for restructuring sovereign debt
• **The statutory approach is the only way to go.** Bond clauses won’t work (30 lawsuits, 150 payouts in developing states in 1990s).
• Where do investors lie? The seeds of some of these problems are in borrowing countries themselves. Maybe what is required is peer pressure: All indebted states say no borrowing. Could this would foster a mutual support network among indebted countries.

**Other comments:**

• **Moral Hazard** – most participants agreed that countries would not be more inclined to default on debt if there was an arbitration process/insolvency court.

• **Development goals (Post-2015, MDGs) all urge rapid investment (debt accumulation) in infrastructure, health, education, institutions, etc.** In order to achieve this – and in light of decreasing ODA – developing countries are increasingly seeking financing from capital markets. This means taking on more debt for *long-term benefits* – these investments do not yield immediate returns. Also, these investments come with high degree of vulnerability to external factors (commodity prices, demand, financial stability).

• **We are attacking a problem of injustice.** For example, 45% of Ghana’s budget goes to debt repayment. We are not prepared to fork over money, and we don’t actually help these countries. We can’t call borrower countries irresponsible when structures set them up for debt.

• Regarding Argentina: NY law changed over life of Argentina bonds. **Changes in domestic laws where bonds are issued have great implications** for how courts rule on sovereign debt restructuring cases. Is there way to rectify the problems this presents?

• There is a difference between laws that change aspects and laws that change international systems. Curbing defaults require a global bankruptcy system.

**Next steps for the paper:** The authors will take all feedback to develop a baseline/foundation and instill less mainstream ideas into one paper that can be presented to government officials, private sector, civil society and staff of the UN, IMF, World Bank and other multilateral institutions.