

**14th session of the Human Rights Council Advisory Committee**  
**23-27 February 2015**

**Statement by the Centro de Estudios Legales y Sociales (CELS)**

**Item 3**

Thank you Mr. President,

On behalf of the Centro de Estudios Legales y Sociales (CELS), we welcome the discussions on the activities of vulture funds and their impacts on the enjoyment of fundamental rights. It is not only opportune, but also necessary to discuss this issue in this very specialized forum.

From civil society, together with other organizations and social movements worldwide, we have been following closely the negotiation processes around this matter here in Geneva, leading to the adoption of the Council's resolution 27/30 that requested the launch of the present process; as well as in New York, supporting the opening of a negotiation process towards a binding legal regulatory framework on the restructuring of public debt by UNGA's resolution 69/247.<sup>1</sup> We are engaged and hopeful that both paths may nurture each other in a way that future developments represent a step forward in the promotion and protection of human rights.

As we have maintained in other opportunities, the actions of vulture funds represent one of many expressions of the injustice inherent in the global financial system. Globalization and the economic logics, leading to substantial private benefit, were not followed by the political logics of satisfaction of basic needs, freedom and equality. Yet, international mechanisms have very little delved into the complex linkages between debt restructuring and its concrete impacts on human rights at the local level. Surely the Advisory Committee may perform an important role in contributing to fill this gap under international law.

Allow us to propose some elements we find of relevance in this regard. The measures taken to fight the activities of the vulture funds must become a necessary part of the current system's reform agenda, which requires urgent collective action in order to:

- Achieve that all States, and particularly the United States and other jurisdictions where similar claims have been filed, enact laws that restrict the predatory activities of creditor funds.
- Ensure that debtor States implement procedural safeguards that limit foreign jurisdictions' ability to impact the full enjoyment of human rights.
- Create an international mechanism that is neutral and independent, designed to resolve disputes concerning the restructuring of sovereign debt, based on the obligation of States to respect, protect and enforce human right, both in their territories and

---

<sup>1</sup> In September 2014, the General Assembly approved Resolution 69/247, aimed at elaborating a legal multilateral framework to regulate the restructuring of public debt, thus providing more efficiency, stability and predictability to the international financial system, as well as achieving a sustainable and equitable development. At the same time, this Council has approved Resolution 27/30, emphasizing that vulture funds oblige indebted countries to divert financial resources that were otherwise destined to guarantee the full enjoyment of human rights of the population. Also, requesting the Advisory Committee to conduct a research-based report, condemned the activities of vulture funds "for the direct negative effect that the debt repayment to those funds, under predatory conditions, has on the capacity of Governments to fulfill their human rights obligations".

extraterritorially. Such a mechanism must be comprehensive and binding for all creditors, public and private, bilateral and multilateral and contemplate an immediate stay of all payments as of the initiation of proceedings. This mechanism should also make a determination about what constitutes a sustainable debt burden, taking into account the need to recover economic viability and ensure the population's human rights are met, and on that basis decide what level of restructuring is necessary. Such a mechanism should recognize that a sovereign debtor is different from a private debtor and provide opportunities for participation, accountability and transparency that encompass the debtor country's population.

From a human rights perspective, the debate on the activities of vulture funds should be based on four main premises:

- States are obliged to prevent that the obligations derived from debt agreements impact negatively on the well being and the rights of the persons living in the debtor States.
- States have the duty to cooperate under international law to enable a just and equitable international economic order that allows for the full realization of all human rights, which includes the regulation of the external debt processes.
- States have extraterritorial obligations under international law.
- Human rights law also applies to and regulates the activities of transnational private entities, such as the vulture funds, which requires taking into account current debates on businesses and human rights.

In conclusion, we hope that the points raised contribute to your productive discussions. We call on the Advisory Committee to build its recommendations on the relevant jurisprudence of the Committee on Social, Economic and Cultural Rights on the matter, as well as on the Guiding Principles on Sovereign Debt and Human Rights. Finally, we also call on States and other relevant stakeholders to engage in this process with the best cooperation spirit.

Thank you.