

VERY PRELIMINARY - PLEASE DO NOT CITE WITHOUT PERMISSION

Explaining Creditor Litigation against Debtor Governments

A new type of economic conflict

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 - World Bank estimates \$2 bn claims have been filed
- Growing policy concern: UK passed “vultures bill” in April 2010, US Congress debating “Stop Vulture Funds Act”
- Problem: No data. Little systematic knowledge, especially compared to related economic disputes
 - Trade disputes, investment disputes, sanctions, ...



Motivation: Theoretical Problem

- Existing sovereign debt literature mostly disregards litigation
 - Traditionally, focus on non-legal punishment and enforcement:
 - (i) exclusion from capital markets, (ii) sanctions, (iii) reputation spill-overs
 - Litigation changes bargaining game in default situations



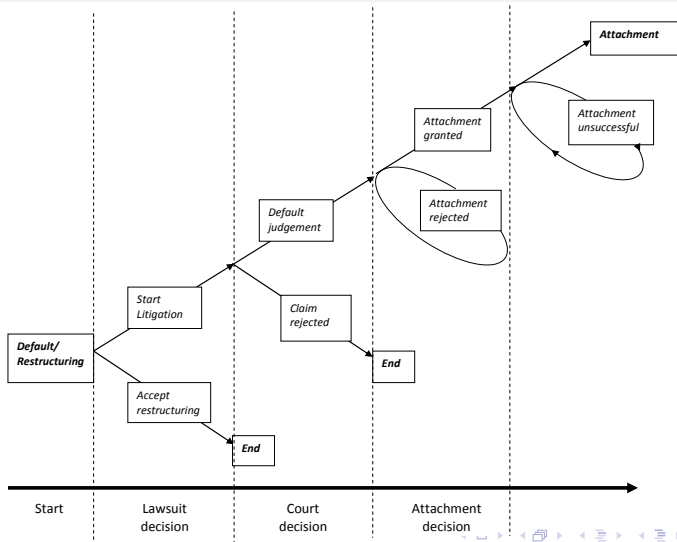
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- Theoretical framework: Small but growing literature
 - Bi et al. (2009): Litigation is a function of prospects/costs of lawsuit and size of haircut
 - Pitchford/Wright (2010): heterogeneous creditors, “vultures” specialize in litigation
 - Che/Spier (2007): Legal entrepreneurs learn legal technology, exploit economies of scale

Motivation: Stylized Timeline



Hypotheses

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H_3 Coercive debtor behaviour in restructuring negotiations increases the likelihood of litigation.

- A unilateral restructuring process can cause creditor outrage (“reciprocal litigation”)
- Measuring “rogue” debtor behaviour: Enderlein, Trebesch, von Daniels (2010)



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- Yearly data: information about start, judgements, outcome, creditor characteristics



Key Descriptives

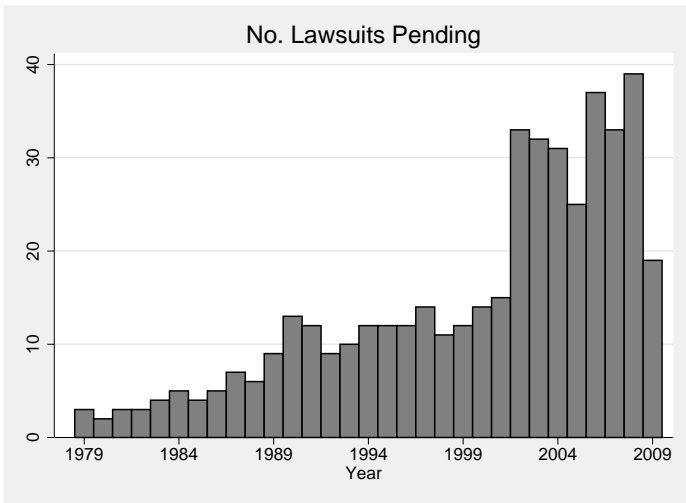
Variable	Cases	Relative share
<i>Total cases</i>	149	
<i>Countries concerned</i>	49	
<i>Decade filed</i>		
1970s	3	2.08
1980s	19	13.19
1990s	35	24.31
2000s	87	60.42
<i>Jurisdiction filed</i>		
USA	72	48.32
UK	20	13.42
Domestic	7	4.7
Other/unknown	50	33.56
<i>Region of Debtor Country</i>		
East-Asia and Pacific	4	2.68
Europe and Central Asia	6	4.03
Latin America and the Caribbean	65	43.62
Middle East and North Africa	8	5.37
Sub-Saharan Africa	66	44.3

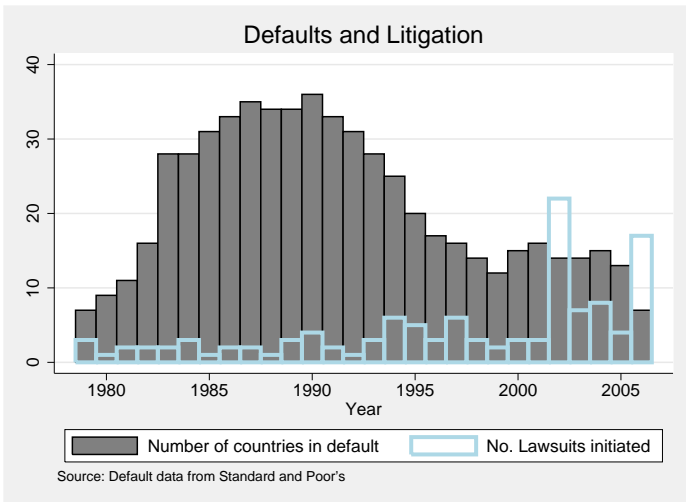


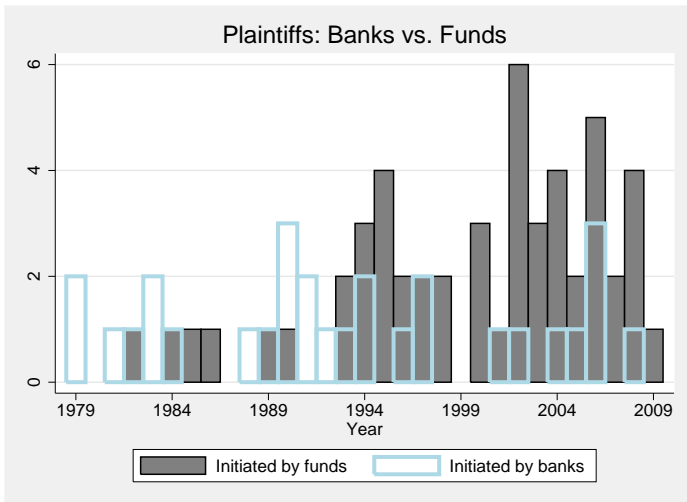
Key Descriptives (c'td)

Variable	Cases	Relative share
<i>HIPCountries</i>	73	48.3
<i>Type of Creditor</i>		
bank	30	26.32
fund	48	47.37
official	13	11.40
other	17	14.91
<i>Outcome</i>		
Default Judgement	100	67.1
Recorded OCS	12	8.1
Unsuccessful	9	6.0
Pending	7	4.7
Unknown	12	8.0

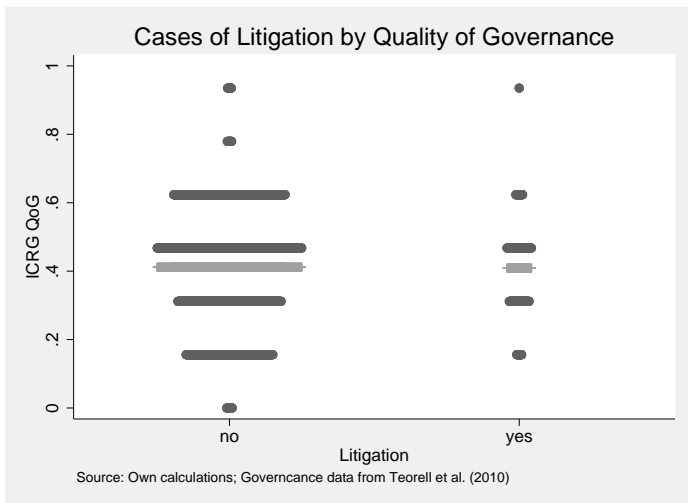




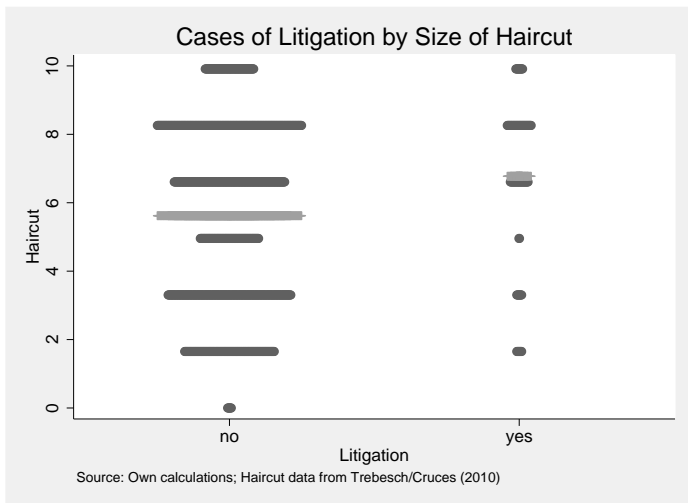




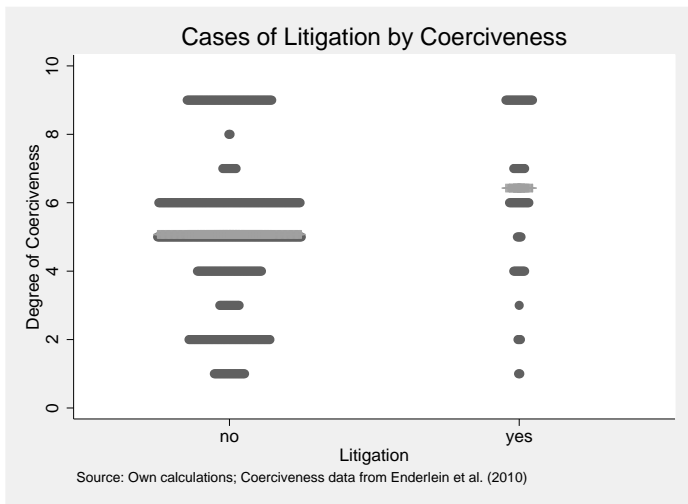
H_1 : State Capacity and Litigation



H_2 : Haircuts and Litigation



H_3 : Coerciveness and Litigation



Conclusion & Outlook

- First systematic evidence: Creditor litigation against sovereigns has increased, especially by “vulture funds”
- Indicative findings: Restructuring characteristics matter (size of haircut, government negotiation behavior)
- Outlook:
 - Conclude and expand coding:
 - i Jurisdictions: German, French, possibly domestic cases
 - ii Collect case characteristics, outcomes
 - Econometric analysis, especially on the role of state capacity, corruption etc.

Back up

