



Will an international doctrine of odious debt ever be established, and if so, to what extent would it be beneficial for the nations involved?

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I. Abstract

Odious debt arises when despotic regimes secure loans that serve oppressive purposes, leaving successor governments and populations burdened with illegitimate financial obligations. This study explores whether an international doctrine of odious debt, first introduced by Alexander Sack in 1927, could mitigate such injustices by invalidating these debts, discouraging creditors from financing authoritarian regimes, and shielding populations from financial exploitation. The hypothesis posits that such a framework could reduce despotic borrowing while minimizing harm to democratic transitions.

Through case studies of South Africa, Iraq, and Haiti, this research examines the legal, financial, and ethical challenges of implementing an odious debt doctrine. Event studies analyzing economic impacts—particularly on exchange rates and reputational risks—offer critical insights into the doctrine’s feasibility. Findings reveal substantial barriers, including ambiguous definitions of odious debt, concerns over reputational damage in international markets, and difficulties in integrating the doctrine into international law. Despite these challenges, the study underscores the potential of an odious debt framework to promote financial accountability and equitable debt resolution.

II. Introduction

For over a century, scholars in various fields of academia have debated whether democratic governments should uphold the international agreements made by previous despotic^[2] regimes^[3]. While some argue that decisions made by despots^[4], possibly against the interests of the people, should not bind democratically elected successors, public international law states otherwise: successor governments must honour all commitments made by their predecessors^[5]. The reason for the latter is the following: a state is typically conceptualised as an infinitely lived entity without any possibility of bankruptcy. Under international law, the debts of a state do not die even if all the people who incurred them have passed away. This means that a state's debt, even if incurred by an oppressive regime, can, in theory, last forever. The strict adherence to the doctrine of state succession leads to the uncomfortable conclusion that even if a dictator borrows funds that not only did not benefit but were used to repress citizens, future generations or governments are still obliged to repay the debts and fulfil other commitments made by that dictator.

Consequently, we are inclined to question whether this strict rule^[6] should be reconsidered in a situation in which a truly odious leader causes the state to borrow funds for a purpose that goes directly against public interest. ^[7]

Ever since the end of the Spanish-American War^[8] in the year of 1898, there has been much discussion over the necessity of such doctrine. The aftermath of this war led to Spain and the United States signing a peace treaty in Paris on December 10th, 1898, establishing the independence of Cuba. After the end of this war came a time of peace negotiations, during which the United States argued the following: neither Cuba nor the United States should be held responsible for the debt accumulated by the Spanish during their colonial rule. They claimed that since these funds had been borrowed without the consent of the Cuban people, the first condition for debt to be considered odious, and used against their benefit, the second condition, then the Cuban government should not be held responsible for them.^[9] Even though Spain never accepted the validity of this argument, they did later take responsibility for Cuban debt.

The enduring nature of sovereign debt obligations is evident in historical cases like those of Russia and imperial China, where creditors pursue claims over a century old against successor governments.

The rules on government succession create a dilemma, as they are two-sided and open to interpretation. On the one hand, the doctrine of state succession legally binds successor governments: " In the absence of such an agreement [an agreement made between the successor and predecessor], the State debt of the predecessor State shall pass to the successor State "^[10].

On the other hand, according to private law, negative bequests are not legally required to be accepted by individuals. This law is famously known, even in literature, as Shakespeare

notes, “He that dies pays all debt.”[\[11\]](#). Indeed, in legal systems influenced by Roman law, such as jurisdictions in European countries or the United States, there is a principle called “beneficium inventarii”, Latin for the benefit of inventory[\[12\]](#). This principle allows an heir to limit their liability for the debts of the deceased to the value of the assets they inherit. This rule however cannot be applied to a nation as even if a drastic change of government occurs, the nation never dies, which means it cannot be forgiven of its debts[\[13\]](#).

Indeed, states, conceptualised as collectives of individuals within a defined territory, are often regarded as entities possessing perpetual existence- a notion that stands in contrast to the finite lives of individuals. The international system, vis-à-vis states engaging in transactions such as borrowing from international markets, assumes that states are infinitely lived. This is called legal fiction: an artificial construct that we, as a society, use, as it enhances global welfare, which is what makes it, in most cases, beneficial to nations. The consequence of this fiction is that states are treated as infinitely lived entities, even though the people who populate them are not.[\[14\]](#) Under the international law doctrine of state succession, “a government automatically inherits the debt of its predecessor government, regardless of how dissimilar the forms of government may be”[\[15\]](#).

There are however situations in which this legal fiction is abused. For example, a dictatorial government borrowing substantial amounts of money from international markets as it is aware that someday, another government will have to pay its debt back. The current strict rule of governmental succession fails to tackle the foregoing scenario. This failure creates a wrong set of incentives allowing oppressive governments to take advantage of the law and not internalise the cost of their wrongful borrowing.

Economic arguments are not the only ones that come to mind when considering a change in international law. In fact, many strong moral and economic questions arise when we ask ourselves the following question: why would it be desirable for a doctrine of international law to exist and, if it were to exist, how could we implement rules that could free a democratic government from the agreements and commitments made by its despotic predecessor?

The installation of such rules could successfully limit the despot's ability to access the international capital market. In addition, it could also facilitate the country's transition to democracy or even discourage rulers to become despots in the first place. Additionally, it could limit the power of a despot or soon-to-be despot by limiting their funds, altogether reducing the appeal for a ruler to become despotic in the first place.

When attempting to clearly define and establish the limits to the doctrine of state succession, we note many obstacles, the first being the exact and precise definition of a despotic government, which, from a conceptual point of view, is not an easy as definitions are subjective. From a practical standpoint, it is fundamental to consider how difficult it is to modify international law. Indeed, modifying the law of state succession requires broad consensus among the global community[\[16\]](#). However, such agreement is difficult to achieve, as the wealthiest and most influential nations-such as the United States, the United Kingdom, Germany and France- involved in odious lending would face financial losses.

The positive arguments to the doctrine's implementation are undeniable. Nonetheless, as a legal matter, we are unaware of any tribunal that has in the past ever explicitly recognised the existence of a doctrine of odious debt, making it an unestablished principle of international law. In fact, "no national or international court or governing body has ever invalidated sovereign obligations on the grounds of odious debt" [\[17\]](#).

In this essay, we will first define the concept of odious debt and present its history, which will establish a solid foundation for examining key instances where the legitimacy of a nation's debt was contested. We will then explore the ethical and financial considerations that must be considered for the adoption of such a doctrine. Additionally, we will define the concept of a legal doctrine and its function. Subsequently, the history of Haiti, South Africa and Iraq will be studied, which will provide three distinct cases of odious lending or debt burden. Lastly, we will propose a new approach to the doctrine, integrating the expert perspectives of Ugo Panizza-Professor of Economics and Department Head of the Geneva Graduate Institute- before reaching a conclusion regarding the dilemma created by this doctrine.

III. Motivations

Debt, especially national debt, has been a central topic in global discussions for centuries. Since Alexander Sack introduced the concept of "odious debt" in 1927, scholars and policymakers have critiqued and re-evaluated his theory, proposing alternative doctrines. Yet, few have explored all aspects of Sack's theory and its inherent obstacles. In the case of Apartheid-era debt, considered by many as one of the most odious debts of all time, even fewer have employed an event study to pinpoint the precise evolution of the Rand's exchange rate, closely to the favourability or not of the doctrine.

Despite being introduced nearly a century ago, the doctrine of odious debt remains relevant, as numerous countries today are witnessing drastic political transitions and rising authoritarianism, such as Russia, China, and North Korea [\[18\]](#).

The doctrine has never been officially incorporated into any international treaty or regulation, nor has any tribunal absolved or relieved debt under the grounds of odious debt. This lack of formal recognition poses a significant barrier to its implementation. In addition to the practical difficulties surrounding the doctrine's rise in influence, we also observe the existing dilemmas within the doctrine itself, which further illustrate the motives for which nations have been reluctant to advocate for its implementation.

These concerns led me to focus on notable cases of odious debt: South Africa's apartheid debt, Iraq's debt generated by Saddam Hussein, and Haiti's debt of dishonour. I made the decision of analysing these three cases as they are all different and provide insightful perspectives on the doctrine and its obstacles: Haiti represents colonial exploitation, South Africa oppressive regimes, and Iraq dictatorial aggression. [\[SP1\]](#) These three cases are possibly the most relevant ones, as they put forward the most notable types of odious debt. However, they are not the main categories of odious debt formulated by Sack in 1927. Indeed, the two

main types of illegitimate debts, according to experts, are hostile and war debts. A large part of Iraq's debt is war debt, used to fund wars notably against Iran; South Africa's is mainly hostile, as it was used to oppress most of the population and lastly, Haiti's debt does not fit into any of the two major categories, despite being considered one of the most odious debts of all time. Haiti's history underscores the fact that these two categories do not encompass all situations.

Through this *Travail de Maturité*, I aim to provide a new outlook on the doctrine of odious debt. By thoroughly analysing past events, I seek to clarify the consequences of this doctrine and its necessity in today's world. More importantly than understanding its consequences, I intend to examine the various obstacles to its implementation in international law. Beyond the legal aspects, there are problems inherent to the doctrine itself. By employing an event study model, I aim to assess whether declarations regarding legitimacy or illegitimacy of debt affect a nation's economy and international financial standing. Lastly, I will propose an innovative approach to the doctrine of odious debt, exploring the way in which it could be established and its potential benefits for nations, while shedding light on a doctrine that remains relevant after all these years.

IV. Contextual Overview

IV.I History

The concept, or doctrine, of odious debt has gained striking political and legal significance since the start of the 20th century, during the post-colonial era. This growth in relevance is the result of the considerable number of regime shifts. These transitions have raised issues on the continuity of legal obligations being transferred from the old regime to the new, specifically debt obligations. The modern concept of odious debt, as we know it today, was initially articulated in *The Effects of State Transformations*, published in 1927, written by the jurist Alexander Nahum Sack. In this thesis, he importantly states that: "if a despotic power incurs a debt not for the needs or in the interest of the State, but to strengthen its despotic regime, to repress its population that fights against it, etc., this debt is odious for the population of the State."[\[19\]](#). These lines laid the foundation for what we now recognize as the concept of odious debt.

Sack came up with the idea of this concept in the late 1910s, a period of time marked by the dissolution of the Ottoman and Austro-Hungarian empires. The legal process of debt collection wasn't applied in these cases as these empires actually ceased to exist, meaning that in this particular case, the legal fiction of a state living infinitely was broken.[\[20\]](#) Sack, jurisprudence expert and professor of Russian law, endorsed the concept that defined debts as legal contracts or obligations and therefore agree with the norm of repayment. The events marking the early 20th century sparked something in him that led to his great realisation: certain debts should be treated differently from others, relative to their purpose and origins. It is

particularly important to note that Sack founds his definition on a legal basis, one which states that for a debt to be considered to encumber the territory of the State, it must be incurred and the funds from it employed for the needs and in interest of the State[21].

Although Sack did not specifically classify odious debts, legal scholars generally distinguish two main categories from his works: war debts and hostile debts. Furthermore, his work indicates two further subcategories, purely based on intent: debts occurred by a despot with the goal of strengthening their rule and oppressing the people, and debts which are “loans incurred by members of the government or by persons or groups associated with the government to service interests that are unrelated to the state”[22]. The latter could include loans incurred to finance bribes, embezzlement, or any misappropriation of public funds.

In more recent matters, at the Vienna Convention on Succession of States in respect of Treaties of 1978, the Special Rapporteur of the International Law Commission, Mohammed Bedjaoui, concluded that “odious debt is an umbrella term covering a range specific debts – war debts and subjugated or imposed debts”[23], putting forward further classifications of debt.

For numerous centuries, the dilemma of odious debt has persisted. Sack theorised that debts should not be enforceable when the lender was aware or should have been aware that the debt was incurred without the consent and against the benefit of the population. In 1923, Chief Justice William Howard Taft, who acted as an arbiter, used the doctrine of odious debt to find that Costa Rica should not be held responsible for payments of the United Kingdom debts, incurred by the regime of Federico Tinoco Granados[24]. However, this was not done through a legal procedure and the argument of a doctrine of odious debt was not formulated in an international court, which is why it didn’t legitimise it. Economists, after carefully analysing the doctrine and circumstances in which it might have been evoked, conclude that the law is a product of custom, and it therefore should be flexible and evolve through time. Its evolution should such that it serves the interest of the global community, meaning that, if it benefited the entire population, the fiction of a state’s infinite life could be suspended by a court.

Before conducting case studies presenting different situations in which a drastic change of government occurred, it is necessary to make a distinction between all types of odious debt and to define them. Hostile debts are debts that are used in a harmful way towards the population; these debts include funds used for colonisation, colonisation wars, conquests, and suppressing secessionist attempts[25]. War debts are debts contracted by a nation to fund unnecessary wars. The third type of debt is developing world debt, which includes loans taken by governments in developing countries. These debts are often mismanaged or used illegitimately, benefiting dictators rather than citizens and leading to increased poverty and economic instability.

IV.II Doctrines: definition and influence

Before analysing the obstacles to the legalisation of a specific doctrine, we must understand what a doctrine is and its power of influence.

The definition of a legal doctrine is general, it is a “single important rule, a set of rules, a theory, or a principle that is widely followed in a field of law. It is formed via the continuous application of legal precedents”[\[26\]](#). It can also be defined as a recollection of works and research made by experts in the field- such as jurists, judges, and professors- on a certain law that refers to a specific situation.

While not official or binding, it can influence legislation and case law by providing convincing and researched arguments that lawmakers and judges may consider, potentially justifying verdicts or court[\[27\]](#). Thus, when people advocate for the legalisation of odious debt, they are advocating for the existence of an internationally recognised legal doctrine of odious debt. Just as Sack advocated in 1927, many experts today for all sovereign nations to come to an agreement and “enter into a convention or treaty under which odious debts are void or could be made void”[\[28\]](#).

As previously mentioned, none of these steps have been taken. Indeed, no nation has included this doctrine in their national law and there has been no convention regarding the matter. The closest we have come to a treaty discussing odious debt is the Vienna Convention on Succession of States in respect of State Property in 1983. Article 38 of the latter states that “no debt passes to successor states unless there is a positive agreement to this effect”[\[29\]](#). This convention has not yet entered into force, and contrary to the doctrine of odious debt, it emphasises state succession rather than regime change. Moreover, its lack of enforcement may indicate the hesitance both States and the International Law Commission to formally incorporate the doctrine into international law[\[30\]](#).

A doctrine becomes officially recognised through the implementation of its policies in treaties, documents of political nature, contractual rules, decisions of state authorities and regulatory legal acts. Therefore, the doctrine is responsible for suggesting the way in which a law must be interpreted.

The doctrine of odious debt could be incorporated in international law through various means. One approach is for States to recognize and integrate it into their national legislation and adhere to it in international agreements. Another possibility is its influence on individual judicial decisions, including court rulings shaped by the doctrine.

Unlike constitutions, legislation and regulations, doctrines are not direct sources of law, they however play a crucial role in the creation and interpretation of judicial norms[\[31\]](#). They may set the terms for future resolution of cases, just like cases in which nations would be advocating for a relief from their illegitimate or odious debts.

In addition, doctrines are often used in legal reasoning to fill gaps or clarify ambiguities in statutes or case law.



Emerson Tiller and Frank B. Cross believe that “legal doctrine is the currency of the law. In many respects, doctrine is the law, at least as it comes from courts” [\[32\]](#), which accentuates its significance in the field of law.

In the absence of treaties, national or international, about odious debt, the only legal basis left for debt succession is public international law. For example, for members of the European Union, public international law derives from the United Nations, notably, the International Court of Justice[\[33\]](#).

International law includes international conventions that establish rules recognised by the present nations, international custom, the general principles of law recognised by civilised nations and lastly, “judicial decisions and the teachings of the most highly qualified publicists of the various nations”[\[34\]](#). This reference illustrates how judicial decisions and the teachings of leading scholars function as authoritative yet supplementary tools in establishing and interpreting the rules of international law. Indeed, doctrines are thought to be “soft law”, alongside UN General Assembly resolutions[\[35\]](#).

However, for the odious doctrine to fit into the last category of international law, it must be less specific and not only include changes of government but also changes resulting from annexation, dissolution and decolonisation.

V. Obstacles in the doctrine's implementation

As previously observed, it is difficult for a doctrine to be integrated into international law, as this can only be achieved by international consensus, alongside a convention or treaty involving many or most nations worldwide. If an international agreement cannot be reached, nations could federally change their laws on debt succession, which would also be a large step towards the doctrine's implementation.

Many ask themselves if a doctrine of odious debt is already, in some way, a customary rule of international law. Experts who believe it is, argue that "there is sufficient state practice and *opinio juris* to establish odious debt as a customary rule of international law"[\[36\]](#). After careful examination, experts Yianni and Tinkler have concluded that the threshold for state practice has not yet been met, and *opinio juris* has not either. *Opinio juris*, from the Latin saying *opinio juris sive necessitatis*, meaning an opinion of law of necessity, is the second element necessary for the establishment of a legally binding custom, denoting a subjective obligation in which a state "perceives itself to be bound by the law in question "[\[37\]](#).

There are three main obstacles limiting the doctrine's implementation: the first being the one we just discussed, which is the need of international cooperation, and the second one being the fact that countries themselves are afraid of using it, fearing damage to their reputation, and furthermore making it more difficult for them to borrow again. A third factor is the fear or repelling foreign investment[\[38\]](#), a factor common to all case studies. Lack of foreign investment, which is investment in domestic companies and assets of another country by a foreign investor, can lead to reduced economic growth and generalised lower productivity and competitiveness on the international stage[\[39\]](#).

From a practical standpoint, the new government would have to defend its case in front of an international tribunal or in the International Court of Justice, which would need to find two things. Firstly, it would have to prove that the debt was misused, indicating that the government did not have rightful intentions. Indeed, its intentions would have to be against the nations best interest. The second condition would be the finding of evidence proving that the lender itself was also aware of the odious interests of the regime it was lending[\[40\]](#).

In their 1998 work, *Reputation Spillover Across Relationships with Enduring and Transient Beliefs : Receiving Reputation Models of Debt*[\[41\]](#), Patrick J. Kehoe and Harold L. argue that if a country fails to pay back their predecessor's debts, even if they are deemed illegitimate, it risks damaging its broader reputation, extending beyond its access to credit. This indicates that, at least since 1998, if not earlier, nations have been wary of declaring debt incurred by a dictatorial regime as illegitimate due to concerns about harming their reputation in international markets.

As a matter of-fact, reputational damage has proven to be a major fear, factoring into countries upholding their predecessors' illegitimate debts. A perfect example displaying this fear is Nicaragua. Anastasio Somoza, Nicaragua's despotic leader, is believed to have stolen from 100 to 500 million USD from Nicaragua. In 1979, he was overthrown by Daniel Ortega, who was

the leader of the Sandinista government[42]. Ortega initially informed the United Nations General Assembly that he would repudiate Somoza's debt. However, after a few months, Ortega reconsidered his decision, as he believed it would have alienated Nicaragua from international markets[43].

While there is little to no recognition of the doctrine in international law, some countries have in the past refused to pay their predecessor's debt, such as the "debt issued by the Chinese imperial government or even the Russian debt "[44]. Some might think this refusal of debt might represent a beacon of hope for the doctrine, but, as mentioned, no tribunal has " ever accepted to adjudicate debt, to restructure it or even reduce it, based off of the basis that it was odious"[45].

The second condition put forward by Sack is the fact that the lenders would have had to be aware of the creditor's odiousness at the time of the loan. This raises the complex issue of designating a date from which loans would be deemed odious. Not only is it difficult to set such a date, but it is also challenging to determine the lender's intentions, whether innocent or not. Lenders could be giving out loans for myriads of reasons, such as seeking financial profit, gaining political power or forming alliances, and distinguishing the specific intention of the lender at the time of the issuing is close to impossible. They could even argue their innocence by claiming ignorance of the despot's intentions at the time- an argument that holds only when it is not evident that the creditor is misappropriating the loans. The risks involved are substantial, as Professor Panizza explains: "Economists are a bit more careful, exactly for this reason, that, you know, if there is a lot of uncertainty on what is odious and what is not odious, then, you would risk the death of the sovereign market because people would be afraid to lend to anybody who could become odious at some point "[46]. A major obstacle, as Professor Panizza underscores, stems from lenders' concern that the debt might be declared illegitimate in the future, which would result in their financial loss, a prospect that could unsettle international financial markets.

If rendering debt illegitimate were to become common, nations might exploit these grounds to dismiss not only illegitimate debt but also legitimate obligations, making it extremely difficult to draw a clear line between the two. This ambiguity would make any doctrine addressing odious debt vulnerable to manipulation, which would require its clauses to be minutely precise. Additionally, Panizza and Gulati[47] add that "if it can be shown that the lender knew about this violation of the principal's interest, it can be then claimed that the agent (the dictator) is colluding with a third party to cheat the principal. If this were the case, the transaction would be invalid under most legal systems " [48], which underscores the ethical and legal challenges that lenders would have to face in the situation of loaning to an odious creditor.

Since no country has officially declared its debt as odious, it is impossible for us to directly observe the potential impact that such a declaration might have on a nation's reputation and economy. However, we can analyse instances where a country has declared its debt as *non-odious* and determine whether its reputation deteriorated or improved, which could be reflected by fluctuations of its currency. Indeed, studying these consequences will help us come to a conclusion regarding the validity of the worry of reputational damage.,



The third factor that must be accounted for when speaking of obstacles is fear of reducing foreign direct investment. Foreign investment refers to “when a domestic investor decides to buy ownership of an asset in a foreign country. It involves cash flows moving “[49]. This form of investment plays an influential role in globalisation and in the financial development of many nations, especially developing ones. If the doctrine of odious debt were legally recognised, investors holding loans or bonds from governments would face the ongoing risk of losing their investments should the borrowing regime be overthrown and its debt declared illegitimate. In such a scenario, a nation’s credit rating and its reputation as a reliable financial entity could suffer, impairing its ability to attract foreign direct investment- essential to the growth and development of many less economically developed nations. The introduction of this doctrine on an international scale could therefore deter foreign investment, thus triggering slower economic growth, capital flight leading to currency depreciation, and diminished infrastructure development, with further social and cultural ramifications. This leads to the conclusion that significant obstacles still have to be overcome before the odious debt doctrine can be integrated into international law.

VI. Case studies

Through quantitative analysis, South Africa's case study will examine the effects of a declaration of illegitimate debt on a nation's exchange rate, which will offer a comprehensive view of its financial health. The study of Iraq will put forward the struggle of a nation emerging from decades of control under a totalitarian leader, Saddam Hussein. It will explore the negotiations that followed Hussein's downfall and offer insights into strategies for alleviating debt burdens. Finally, Haiti's rich history will shine light on a different type of odious debt, classified by Alexander Nahum Sack as colonial debt. This case will highlight the dependency of colonised nations to their colonisers and assess how effectively they have or have not been able to tackle this entrenched dependency.

VI.I South Africa

The event under analysis in this study is Nelson Mandela's declaration on the 3rd of September 1993, and its impact on fluctuations in South Africa's exchange rate. The time frame for this analysis spans from June 1st to the December 3rd 1993, capturing three months before and three months after the event. To evaluate the effects of the declaration, an event study model will be used. The event study model is a "powerful econometric tool used for the purpose of estimating dynamic treatment effects" [50]. Economists use this to measure the effects of an economic event on the value of firms, stock values, exchange rates, etc... The first step in conducting an event study is defining the event of interest and naming the period over which the certain data will be examined, this is called the event window. Usually, the period of interest expands over multiple days, it must imperatively include the day before the announcement, the day of, and the day following the event.

To evaluate the potential financial impact of this declaration, we shall carry out an event study on the Rand's exchange rate, South Africa's currency, in relation to the US dollar. The US dollar will be used in this event study due to its status as one of the most stable and dominant currencies in the world during the late 20th century, specifically from the 1980s to the 2000s [51]. To successfully conduct this case study, it is essential to introduce the event and provide the historical context surrounding it. The focus will be on an event that took place, as mentioned, on September 3rd, 1993. On this day, Nelson Mandela delivered a very important speech, one that would pave South Africa's legacy for years to come. To fully grasp the significance of this event, we must consider the circumstances under which the speech was delivered, not only to the people of South Africa but to the people of the world.

Apartheid was a system of racial segregation and discrimination enforced by the South African government from 1948 to the early 1990s [52]. The aim of the National Party, led by Daniel F. Malan, was to maintain white minority rule by legally enforcing the separation of racial groups. In 1948, Malan officially implemented Apartheid policies. Under Apartheid, South Africans were classified into distinct racial categories. Indeed, the Population Registration Act of

1950 categorized South Africans into the following groups: Bantu (Black Africans), Coloured (mixed race), white, and later, in the early 1950s, Asian (Indian and Pakistani)[\[53\]](#).

Before his arrest, Nelson Mandela was a well-known anti-Apartheid activist. Alongside Oliver Tambo, Walter Sisulu, Anton Lembeded and Ashby Peter Solomzi Mda, he founded the African National Congress (ANC) Youth League, later becoming one of its major leaders. His reputation grew due to his involvement in protests advocating for equal rights and justice for Black South Africans and opposing Apartheid policies. His commitment to this cause led to his arrest and trial in 1964, resulting in a life sentence for his anti-Apartheid activities [\[54\]](#).

The downfall of Apartheid began in the 1980s, as the regime faced intensifying internal and external pressures, such as international sanctions. In 1990, President F.W de Klerk entered negotiations to dismantle Apartheid, which led to Mandela's release on February 11, 1990, after 27 years of imprisonment, marking a pivotal event in South African history. Once freed, Mandela committed to transformative change, playing a crucial role in the establishment of the first multiracial elections, held in 1994, that the ANC won significantly, making Mandela South Africa's first black president.

This historical context connects with the doctrine of odious debt, as the Apartheid symbolizes a despotic government that secured substantial loans from other nations, often against the country's broader interests. After the 1994 elections, the ANC, representing the democratically elected successor government, was legally bound by international agreements to honour commitments made by the despotic Apartheid government.

Indeed, when Mandela walked out of the Victor Verster Prison in Cape Town, financial institutions and wealthy nations handed him and his people a bill for 28 billion GBP[\[55\]](#). These debts were the result of the destruction wrought by Apartheid across Southern Africa. It was now time to rebuild the nation but the banks and countries that had loaned money to Apartheid were now demanding repayment. The people who had suffered from the violence and repression of the oppressive regime were being asked to pay back the money used to harm them. This dictatorial regime not only oppressed its own people, but it also began a war against Mozambique and Angola, imposed economic blockades on Lesotho, Botswana, Zambia, Zimbabwe, and Malawi and made raids into all its neighbouring states[\[56\]](#). In 1973, the United Nations started describing the Apartheid's actions as crimes against humanity; this however did not stop the international financial community from making loans to the apartheid government.

On the 24th of April 1997, The Archbishop of Cape Town, the Most Reverend Njongkulu Ndungane, spoke at the Southwark Cathedral and importantly stated that; "as we approach the new millennium, the time has come to invoke the Doctrine of Odious Debt. ... In the case of South Africa, its foreign and domestic debt was incurred, by and large, under the apartheid regime, and should ... be declared odious and written off."[\[57\]](#) This statement not only highlights the archbishop's dedicated support for legitimising the doctrine of odious debt but also underscores the doctrine's relevance to South Africa's unique circumstances.

On the 3rd of September 1993, before Mandela was officially voted on as president, he made an announcement stating that he would repay South Africa's debt. Despite the Archbishop

of Cape Town and South Africa's Truth and Reconciliation Commission's dedicated support to have Apartheid-era debt written off, "the post-apartheid government (has) accepted responsibility for the debt "[58]. This event marked a considerable time in the nation's history, as it meant tackling the obstacles created by this immense debt and fighting for the rebirth of the nation. This is why this specific event will be used to study the reputational damage to the Rand after a promise of debts being paid back, in other words, debt being declared as non odious.

However, it is important to understand the context in which this declaration was made. Nelson Mandela, along with the ANC, initially sought to have apartheid-debt erased, arguing that these debts were odious[59]. However, the situation shifted between 1990 and 1992, as the Soviet Union, a key ally and long-time supporter of the ANC, began to collapse. Mandela was caught in a checkmate: the only move he could do to salvage South Africa, now that he was lacking a powerful ally, was to accept the debt, as it would give him access to international markets[60].

Before proceeding with the statistical analysis, it is crucial to first explore why a nation, in this case South Africa, would choose to honour the debts incurred by a former despotic regime. As highlighted in the *Obstacles to the Implementation of Odious Debt*, nations are often concerned that declaring their debt as illegitimate could harm their credibility in international financial markets. Naturally, other nations would be less keen in the future to lend to a nation with a history of defaulting on loans. Such a declaration could have numerous devastating effects, most importantly, it could diminish a nation's prospects for attracting foreign investment, a fundamental aspect in a country's economic stability, especially in Africa. By using the event study model, this analysis will determine whether the concern over a tarnished reputation is justified by evaluating the impact of Nelson Mandela's decision to honour apartheid-era debt on South Africa's economic standing. This case is viewed as controversial because some people claim that the funds borrowed by the apartheid regime were not solely used for the oppression of the Black population, but also partly contributed to South Africa's infrastructure development, financing the construction of roads, schools, and hospitals. Nonetheless, the problem lied in the fact that this economic growth was deeply unequal, disproportionately benefiting the white minority at the expense of the Black majority and other racial groups.[61]

South Africa's debt has remained a financial obstacle since the 1990's, with the South African Treasury reporting in 2018 that none of its debt has been canceled. This enduring burden reflects the nation's severe financial struggles, further worsened by inflation, global financial crises, rising interest payments, political instability, and many other factors. According to Alexander N. Sack's grounds for debt relief, South Africa had justification to seek relief, as most of the debt was inherited from the so-called odious Apartheid regime. [62] However, the government's decision to honour this debt, as previously noted, was driven by the need to secure future access to loans and maintain international credibility. This supports the idea that apprehension remains a central reason for the lack of implementation of the doctrine.

As previously mentioned, the event study model will be using the exchange rate of the Rand in relation to the US dollar. Mandela's speech occurred on the 3rd of September 1993,

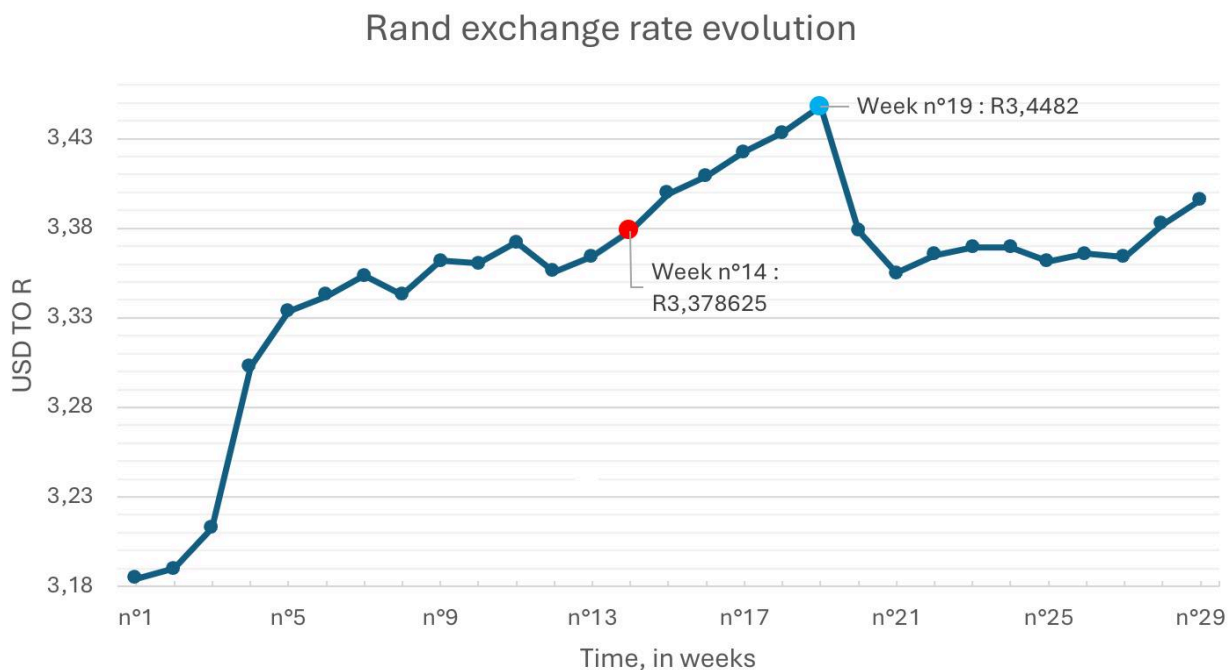
which is the event window of the Rand's exchange rate will span from the June to December. The exchange rate, being the "price of one currency in terms of another currency" [63], will be graphed and its progression studied to draw a conclusion on the possibility of reputational damage following a declaration of odious debt.

These values are highly precise and represent the Rand's daily exchange rate, 5 days a week, as that is when the markets are open. To simplify the quantification of data, we calculated a weekly arithmetic average of the exchange rate using the following formula:

$$\bar{x} = \frac{\sum x_i \cdot n_i}{N}$$

The Rand's exchange rate is studied over a span of 29 weeks. The arithmetic averages of each week, with 7 significant digits, are presented in this table: The event studied, which is Mandela's declaration, occurs at the end of the 14th week, on September 3rd. This graph enabled us to pinpoint the Rand's exchange rate evolution over 6 months.

The y-axis of the graph represents the values of the Rand's exchange rate with 7 significant figures, and ranges from 3.050000 to 3.500000. The x-axis is a time frame, ranging from June 1st to December 3rd, this time period being divided into 29 weeks. The red dot marks the day of Nelson Mandela's speech, while the blue dot marks a particularity in the graph.



Following Mandela's declaration, the Rand's exchange rate fluctuates but shows a gradual climb from approximately 3.370000 to around 3.4482000 from week 14 to week 19, signalling that international markets responded positively to South Africa's commitment to repaying its inherited debts. This supports our hypothesis that a country's decision to honour their predecessor's debts can lead to beneficial consequences by boosting investor confidence and stabilising the currency. It is impossible to judge whether it is a correlation or just a causality, but, judging from our analysis, there seems to be a direct correlation between the two.

We note a peak at week 19, in October of 1993, where the Rand reaches its highest value of about 3.4482000. Indeed, around the beginning of October, a breakthrough occurred in South Africa's political transition because of the finalisation of the Interim Constitution, which was "duly endorsed by the last apartheid Parliament and became the Constitution of the Republic of South Africa, Act 200 of 1993"[\[65\]](#). This finalisation could have reassured the markets that South-Africa was finally on a path towards long-term political stability, making their loans less risky. In addition to the Interim Constitution, on the 16th of October, the Norwegian Nobel Committee reported that Nelson Mandela and Frederik Willem de Klerk, the last white president of South Africa, were the winners of the Nobel Peace Prize for 1993[\[66\]](#). This once again could have elevated global confidence in Mandela's leadership, and overall increased optimism surrounding the nation's economic and political future.

However, the sharp decline in the Rand's value beginning in early November, down to approximately 3.3500000, illustrates the complex trade-offs nations face when considering whether to declare debt as odious. While Mandela's commitment to uphold apartheid-era debt had immediate positive repercussions, the long-term realities of economic strain eventually impacted international optimism. The tension and uncertainty created by the 1994 elections surely also had an impact on the growth of international concerns[\[67\]](#). In addition to the elections being held, the sporadic violence in regions such as KwaZulu-Natal may have contributed to this downward trend occurring after week 19. [\[68\]](#)

Considering the evidence presented, the graph demonstrates that, while Mandela's debt declaration initially bolstered the Rand's value, the long-term reality of South Africa's debt burden and upcoming political risks tempered this positive momentum. The Rand's evolution clearly aligns with the theory that a declaration of debt as illegitimate would tarnish a nation's reputation. This theory further verifies the broader argument that fear of reputational damage is a major reason why the odious debt doctrine has not been widely implemented. This concern has pushed and continues to push nations, such as South Africa, to prioritise maintaining credibility in international financial markets over freeing themselves of illegitimate debts[\[69\]](#).

VI.II Iraq

Iraq's case presents a compelling example in the context of the doctrine of odious debt. To fully grasp the significance of this case within the doctrine, it is fundamental to review Iraq's history. Iraq gained formal independence in 1932; however, it remained subject to British imperial influence for the two following decades of monarchical rule^[70]. In 1958, the monarchy was overthrown after decades of political instability. In 1968, the Arab nationalist and socialist regime, the Ba'ath Party, came to power in a bloodless coup, and brought new stability^[71]. The regime was able to finance revolutionising projects in the 1970s thanks to the nation's extensive oil reserves.

A ruthless autocrat, Saddam Hussein, took over the party's leadership in 1979. Hussein led Iraq into harmful military adventures such as the Iran-Iraq war, which lasted from 1980 to 1988, and the Persian Gulf, from 1990 to 1991. These conflicts led to disastrous consequences for Iraq: the nation was left isolated from the international community, the wars had drained its resources, and the people grew unhappier of their leader. Despite public discontent, Hussein managed to maintain his position using fear, intimidation, and violence, spreading terror through Iraq^[72].

Despite his deep belief in his own invincibility, Saddam provoked an American invasion, leading to the Iraq War in 2003, whose beginning was marked by his regime being toppled ^[73] after the invasion of Iraq by a coalition led by the U.S on March 20. The US justified their invasion with the fact that the Iraqi government was in possession of WMDs, short for weapons of mass destruction. If this was the case, then Iraq would pose a serious threat to international security, justifying the invasion. The US also stated that it was their intention to put an end to Hussein's dictatorship and try to steer the troubled nation towards a democratic government.

We will briefly go over a timeline of events leading to the end of the war. On December 13, 2003, Saddam Hussein was taken forcefully by US forces^[74]. Five months later, in April of 2004, the First Battle of Fallujah began, which ended on May 1st with the victory of Iraqi insurgents^[75]. In January 2005, the first democratic elections since the invasion were held. In February 2006, the Al-Askari Mosque in Samarra was bombed, aggravating sectarian violence. On the 22nd of April 2006, Maliki is named Prime Minister. Maliki formed a unity government with Iraqi Sunnis and Kurds. As stated above, sectarian violence was increasing, only worsened by bombardments, which was becoming a problem for the US. This led to the US implementation of the *surge* strategy in 2007^[76]. This strategy consisted of increasing the number of troops on Iraqi ground to stabilize the troubled nation. On January 10th, 2007, President George W. Bush addressed the Nation on Military Operations in Iraq. He stated that "America will change [their] strategy to help the Iraqis carry out their campaign to put down sectarian violence and bring security to the people of Baghdad. This will require increasing American force levels. So, [he has] committed more than 20,000 additional American troops to Iraq." ^[77]. The war ended on December 18, 2011, when the US started gradually withdrawing its military forces from the troubled nation, following an announcement by President Obama in

February of 2009. The war left the country destroyed by weaponry and 8 years of conflict and resulted in the death of over 100'000 Iraqis.

Iraq's debt was not entirely a result of the Iraq War (2003-2011) but also of other conflicts carried on previously by Saddam Hussein. Notably, in 1980, Hussein launched a war against Iran, lasting 8 years and causing humane and financial destruction to both nations. Prior to this conflict, Iraq was regarded as a lending nation. However, this status became untenable after the war, as the economy was burdened by war expenditures and declining oil prices. To put up with such losses, Hussein started borrowing significant amounts of money. In fact, he borrowed 21 billion US dollars from the Paris Club, an informal grouping of creditor nations, notably the US, Germany, France, Japan, and the United Kingdom. This amount grew to 42.5 billion by 2003, due to high interest rates imposed by the creditors. Saddam did not only borrow from the Paris Club, but he also borrowed around 67.4 billion USD from financial institutions and other nations. Iraq's debt also extended to commercial debt, around 20 billion USD and multilateral debt [\[78\]](#), 0.5 billion USD. As a result of the Iran-Iraq conflict, Iraq lost 35 billion USD, making its debt to international creditors reach 80 billion USD by 1990. Other events such as the Iraqi occupation of Kuwait and war reparations led Iraq's debt to rise as high as 130 billion USD according to International Monetary Fund data [\[79\]](#). Total estimates of Iraq's debt burden ranged from 120 to 130 billion dollars, some estimates even reached as high as 350 billion USD, if we considered all claims incurred during Hussein's regime. [\[80\]](#) Many commentators, especially members of the Bush Administration, understanding the significance of Iraq's debt burden, strongly believed that the nation's new government should not be held responsible for the debts incurred by the Hussein regime. Reducing Iraq's debt to a sustainable level was at the time one of the U. S' main priorities. By doing so, they would be promoting democracy and securing long-term interests in the region, whilst securing international cooperation in Iraq's rebuilding process. This involvement led to debt relief negotiations over the years. More specifically, in 2003, some members of the US Congress repudiated Iraq's debts in H.R. 2482, The Iraq Freedom from Debt Act. This bill, introduced by Representative Carolyn Maloney, was never enacted, but its content remains relevant to the current debate. In this act, Maloney and others called on the International Monetary Fund and the World Bank to cancel all of Iraq's odious debt and additionally called on Congress and President Bush to discuss with and urge Iraqi creditors into canceling their own debt, which, as we will see, was partially achieved. Media coverage highlighted the unfair reality that, following Saddam's overthrow, the Iraqi population would be responsible for repaying the debts accumulated during his regime. The media was also repulsed by the fact that the Iraqi people would be forced to pay back Saddam's debts after he was overthrown. Renowned newspapers, such as the New Yorker, stated that "[a]sking the Iraqi people to assume Saddam's debts is rather like telling a man who has been shot in the head that he has to pay for the bullet" [\[81\]](#).

In 2004, Iraq's Minister of Finance at the time, Adil Abdul Mahdi, came forward in an interview with Euromoney and spoke of Iraq's debt burden. In this interview, Mahdi states that the nations need for a very substantial debt relief is a consequence of "decades of financial

corruption and mismanagement under the Saddam Regime “. [82] He then goes on to detach these reasons from the “principles of international law such as the odious debt doctrine “; stating that they are “not the reason why Iraq is seeking this relief “[83]. As we see in Adil Andul Mahdi’s speech, the Iraqi government and the Paris Club agreed that the grounds for this debt relief were “an economic justification “[84]. However, we could argue that the only reason for Iraq’s difficult financial situation was Saddam Hussein. Iraq sought a reduction of its debts through normal and official channels, as decided by Mahdi. These negotiations, called the Paris Club Iraq agreement, reached three months after the interview, provided Iraq with an 80% reduction of the Paris Club debt. This same agreement also set terms for non-Paris Club lenders and commercial debt cancellation levels. [85]The decision of eliminating of Iraqi debt was mostly based on economic choices, most nations agreed that Iraq needed a fresh start: the nation had immense debts which had to be erased for it to move on and rebuild its economy, notably its oil industry. Iraq’s case showed the world how complex debt restructuring was, especially because it consisted of various claims[86].

The conversation surrounding the cancellation of Iraq’s debt emerged shortly after the fall of the Hussein regime, as we see through the Minister of Finance’s statement. The fact that Iraq preferred to seek debt relief through normal negotiations and without calling onto the creation of a doctrine of international law such as the odious doctrine allowed the nation to receive its debt relief without potentially destroying its relationship with its creditors and its worldwide reputation as borrowers. Iraq’s case is famous as it managed to tackle the debt obstacle with the help of other leading nations. Indeed, its debt was reduced, almost completely eliminated. It is however a pity as, once again, this was done without applying the doctrine of odious debt, even though the legal grounds of this doctrine were the grounds used to cancel the Iraqi debt. Indeed, it was cancelled through “a UN resolution, then a presidential decree in the US. But this debt was never officially labelled as odious”[87]. This shows us a common ground with South Africa, where once again a nation refused to call on the odious debt doctrine, fearing its reputational damages.

VI.III Haiti

Haiti's case study will differ from the two previous ones of post-Apartheid South Africa and post-Saddam Iraq, as it implies a different type of odious debt: colonial debt. Colonial debt is still today a tool used to maintain certain colonial structures, in which wealthy countries, who were previous colonisers, continue to dominate decision making spaces and benefit from the debt they imposed on their previous colonies, who are now poor countries in the global south. As stated by Thomas Sankara in 1987, then President of Burkina Faso: "Debt's origins come from colonialism's origins. Those who lend us money are those who colonised us. They are the same ones who used to manage our states and economies. These are the colonisers who indebted Africa "[88]. To correctly study the implications of Haiti's odious, we will examine the Haitian Independence Debt of 1825. Haiti's debt is considered by many to be the "most odious in the history of sovereign debt"[89]. Thus, the Haitian Independence Debt will serve as a pivotal case study, illustrating the broader implications of classifying such financial obligations as odious. We will begin by going over the events that led to what occurred in 1825 and discuss the implications of this debt of independence on Haiti's economy.

From the 20th of September 1697 to the 1st of January 1804[90], Haiti was a French colony. Before that, from about 1492 onwards, the Spanish began to enslave the native Ciboney and Taino. Following the arrival of Columbus to the Americas, Haiti's indigenous population started being exploited. This exploitation was characterised by forced labour, notably mining for gold. In addition to being devastated by inhumane working conditions, the population was also vanishing due to the arrival of European diseases, to which they were not immune[91]. Soon after the exhaustion of the gold mines, the French succeeded the Spanish, and their corporations began taking control of the area. The French called Haiti *Saint-Domingue*, and by the end of the 18th century, their colony had an estimated population of 556'000 and was one of the most profitable colonies in the world. Its population was divided into three main categories: 500'000 were African slaves, 32'000 were European colonists and around 24'000 were people of mixed African and European descent, notably called *affranchis*[92].

The society, mostly made up of slaves, suffered constant hardship. They endured endless workdays and often passed away due to injuries from the hard labour, infections, and disease. Another common factor for their death was malnutrition and starvation, which was omnipresent within society. This tension led to the beginning of a series of conflicts in the early 1790s. Finally, in 1804, after an extended period of independence struggle, the enslaved population of Haiti was freed from France thanks to a successful slave revolution and military victory over Napoleon Bonaparte's armies[93]. France, wanting to punish Haiti for their actions that crushed its economy, decided to forge alliances with other colonial powers, in order to prevent Haiti's independence movement from inspiring other anti-colonial struggles. Unfortunately, the Declaration of Independence caused a major economic decline, that has persisted for over two centuries[94]. Experts believe numerous factors led to this decline. These factors include the

destruction of capital and infrastructure because of the Revolution, a lack of trade and diplomatic relations, a lack of foreign and domestic investment, a decrease in agriculture and a transition towards subsistence farming. The most key factor was the debt it owed to its previous coloniser, France. This heavy debt burden, along with all other financial, social, and political factors, left Haiti unable to rebuild or even just maintain the wealth that Saint-Domingue once had, being now considered one of the poorest nations in the world[95].

Two decades after its the Declaration of Independence, the new country was deeply indebted to France, its former colonial ruler. In 1825, France, with warships at the ready, sailed to the island and demanded Haiti to compensate France for its loss of slaves and of its slave colony. France demanded payment of 150 million francs in exchange for French recognition of Haiti as a sovereign republic, claiming that that amount was a compensation for the loss of income coming from slavery[96]. Haiti not only agreed to paying this indemnity but also agreed to grant favourable customs to French imports for the loss of their property, in other words, the Haitian slaves. Concretely speaking, it remains unclear what Haiti got in exchange for this, as King Charles X did agree to grant “the full and complete independence of (the Haitian) government “[97]. However, it is important to note that he did not explicitly recognise the new state itself until 1838 in the Treaty of Peace and Friendship, a treaty that reduced the country’s sovereign debt to 90 million francs. This reduced amount is worth about 21 billion pounds in today’s terms[98]. The former colony only repaid its debt in 1947, about a century after declaring its independence from the French [99]. The significant debt that Haiti was forced to pay back drained the nation’s resources for over a century, which decimated investment in healthcare, infrastructure, and education. In addition to the drainage of resources, Haiti even had to borrow money from other countries, such as France, costing it millions in interest and deepening Haiti’s reliance on French loans. What is clear today is the deep injustice and immorality of the French’s action of imposing such debt on Haiti, who had already paid for their independence through blood. As previously stated, odious debts are debts unfairly imposed on a nation that cause harm. This would lead us to the undeniable conclusion that the Haitian Independence Debt should be odious. The circumstances strongly suggest significant coercion, as Haitians were compelled to pay for their freedom—achieved 21 years earlier—through compensation payments.

In 1825, the indemnity has been reported to have been at around 300% of the island’s GDP. The only way in which Haiti could repay this debt was by borrowing money from French banks. This sadly meant that the indemnity would become an even heavier debt burden, one that would persist for generations. As stated, to the apparent eye, there is no visible benefit of this debt on the Haitian people. Hence, it could be considered odious, but we see little to no mention of this specific case in literature on odious debt. We do however note numerous authors publishing works in French, which examine the way in which French history is intertwined with the one of Haiti and write of the significant event that was the one of Haitian Independence[100].



Haitian debt has not been thoroughly discussed in the sovereign debt literature or even just as an example of odious debt. This is probably a result of Haitian debt not following the standard model of odious debt, in which corruption in the borrower government is presumed, which in fact does not line up with Haitian history. However, it is shocking that the case considered by many to be the most odious sovereign debt in history should be overlooked by the doctrine. We can therefore argue that the legal doctrine of odious debt is too narrow as it fails to consider obligations that arise in cases of struggle for independence, but most importantly the process of decolonisation.

VII.IV Synthesis to case studies

In retrospect, Haiti, Iraq, and South Africa's histories are deeply complex, and all different in their own way. Each case study offers compelling insights into the application and challenges surrounding the doctrine of odious debt. While each nation experienced different historical and political circumstances, they all faced the same dilemma- whether they should or shouldn't accept debts that were inherited from oppressive regimes or colonial rule.

In South Africa, the post-apartheid leadership under Mandela decided to honour the debt incurred during the apartheid-era, despite its odious nature, possibly out of concern for protecting their nation from a damaged financial reputation and access to international markets.

Iraq's situation post-Saddam Hussein shows a similar reluctance to invoke the doctrine, even though most of its debt was incurred by a totalitarian regime, responsible for oppressing the Iraqi people and driving the nation's economy into ruins. The Paris Club sought a debt relief through normal diplomatic channels, and not using legal venues like the odious debt doctrine.

Haiti's case is widely regarded as the most profoundly unjust in history due to the paradox at its core: Haiti was compelled to compensate France, its former coloniser, as the price for its own independence. The Haitian Independence Debt of 1825 had devastating consequences for centuries, yet it is rarely discussed in the cases of odious debt, as it does not fit into the traditional model, which states that a necessary clause is corruption within borrowing government. Haiti's case underscores the limitations of the current doctrine, leading us to suggest that it should be expanded to accommodate cases in which there is financial exploitation, mainly colonialism.

These case studies highlight the need for a more comprehensive and flexible approach to the doctrine of odious debt, one that must also take into account broader contexts of colonial expansion. It puts forward not only the need for a modification of the doctrine itself, but especially the international necessity for such a doctrine to be part of international law.

In all cases, jurists have said the debt accumulated by these nations under apartheid, Hussein or the debt imposed by the French colonisers, is odious. For South Africa and Iraq, a despotic government issued loans and used them against the people's interest. For Haiti, the slave community had to pay a second time for their independence.

VIII. Expert's opinion

To introduce the discussion on the current relevance of the odious debt doctrine, Ugo Panizza, Professor of Economics, was asked whether this concept, which lacks formal legal recognition, still holds significance today, over a century after it was first proposed. Professor Ugo Panizza stated that “In international law, we still have the standard principle that any contract made by a government has to be maintained by the successive government, even if the government that made that contract was an odious, in other words despotic, government “[101], clearly stating the current procedure of governmental succession.

Nonetheless, despite the lack of formal recognition, the doctrine is still a topic of debate today, which shows us that the doctrine is still relevant in today's society. Indeed, Professor Panizza believes that the odious doctrine is a very relevant issue. This relevance is due to the fact that “after a period in which the world seemed to become more democratic, or at least it appeared to be becoming more democratic, there are more and more regimes which are undemocratic “. There has been a strong transition of countries from “semi-democracy to more authoritarian regimes “, such as China or Türkiye.

Professor Panizza, like many other economists such as Michael Kremer, Seema Jayachandran, Lee Buchheit and Mitu Gulati, believes that "it would be important to have something established that could determine that certain debts are indeed odious and therefore should not be enforceable,"[102] emphasising the ongoing need for a formal framework that would allow certain nations to seek relief from burdensome odious debt.

Panizza further elaborates on the legal and economic challenges of implementing this doctrine, explaining that “no court has ever accepted to adjudicate or restructure debt on the basis that it was odious”[103]. While there have been cases where debts were restructured or cancelled, such as in post-Saddam Iraq, these decisions were justified by economic reasons, but never under the formal application of the odious debt doctrine. This illustrates the significant gap there is between theory and practice, despite the doctrine being discussed in international finance.

The moral and ethical implications of the doctrine extend beyond the debtor nations to the international creditors. There are major distinctions that must be made to differentiate different types of lender intentions. In a case like Iraq's, “the Paris Club extended loans for political reasons, not for profit”[104] ; making it difficult for these creditors to later claim that the loans were unjust. On the other hand, private creditors, like JP Morgan, lend money purely for profit, which complicates the idea of declaring debts odious. If private creditors fear that loans to unstable governments could be retroactively declared unenforceable, they may become more reluctant to lend at all, reducing capital flows to developing countries. This is another critical obstacle to the implementation of the doctrine, as it could hypothetically lead to a foreign market crash.

From a technical standpoint, in terms of legal implementation, Panizza suggests that “such a policy could only take hold if major jurisdictions, like New York or London, decided to

change their laws." Most international debts are adjudicated in these jurisdictions, meaning that any significant legal shift in these cities would have a global impact.

Although such modifications are challenging and rare, Panizza mentions recent proposals to modify New York law to facilitate sovereign debt restructuring in general, which could indirectly open the door to more formal discussions on odious debt. Indeed, "it is an issue that would facilitate sovereign debt restructuring in general"[\[105\]](#). These modifications provide some hope in the modification of government succession laws.

Thereafter, Panizza discusses Nelson Mandela's choice to honour apartheid-era debts. When being asked why he thought Mandela made that decision, the expert suggests that Mandela's decision was guided by the fear that "if they had declared their apartheid debt as odious, they would have had a problem borrowing in the international capital market."[\[106\]](#) Mandela's choice was likely a strategic move to present South Africa as a market-friendly, stable democracy, dispelling fears that the new government would pursue radical economic policies. This decision reflects a broader concern for reputational damage, a key factor preventing a widespread implementation of the odious debt doctrine.

Panizza also believes that there is a need for an authoritative international institution to oversee the classification of odious debt.

Organisations like the IMF or the World Bank are not suited for this task because they are primarily economic institutions, not political ones. Instead, Panizza envisions the United Nations or a similarly credible international body playing the role of a mediator. If the UN were to overcome its political divisions and difficulties, such as the veto power held by the members of the Security Council- it could potentially establish a system for declaring a regime or debt as odious. If the UN could vote and, for example, 75% of countries agree to declare a regime as odious, this could serve as a legitimate basis for classifying debt,"[\[107\]](#) he explains. On the other hand, Anne Krueger, former Deputy Managing Director of the IMF, argues that, rather than canceling debt, restructuring offers a more balanced approach. She highlights that restructuring can maintain essential credit flows while offering debtor nations flexibility in repayment terms, which helps to sustain long-term relationships with creditors and supports economic stability in regions dependent on foreign investment. Krueger believes there is an urgent need to overhaul the debt restructuring process, especially to support developing countries[\[108\]](#). This underscores that there are still today differences of opinion regarding this doctrine.

In conclusion, Panizza's insights highlight both the need for a recognised doctrine like the one introduced by Alexander Nahum Sack, but also the complications that come alongside it. The need for an international institution to manage the classification of odious debt is evident, but unfortunately current political divisions and concerns complicate the situation. As the Professor suggests, for this doctrine to gain significance, a major legal change in an influential jurisdiction will have to occur, alongside the establishment of a credible international body to oversee its enforcement.

IX. New approach

In the current state of affairs, nations repay debt even if it is illegitimate because they believe that, if they failed to do so, their assets abroad could be seized and their reputations tarnished, making it harder to borrow or attract foreign investment^[109]. These potential consequences deter nations from declaring their debt as odious due to the risk it would pose to their financial standing.

It seems logical that nations shouldn't be held responsible for debt that is incurred without public consent, similar to how individuals aren't accountable for obligations entered into by others on their behalf, or how corporations aren't liable for unauthorised contracts by their executives, as in the *Palmarat* case involving bribery and fraud^[110].

An institution that could assess and declare regimes as odious could create a new balance where nations could refuse illegitimate debts without tarnishing their reputation, as evidenced in, South Africa's case.^[111]

The IMF and World Bank, being privately owned companies, do not act as moral arbiters in today's world. Even if the IMF could be responsible for some aspects, such as "polic[ing] a regime's looting by imposing conditions on access to IMF assistance as well as by invalidating the regime's debt. »^[112], the United Nations should hold the most influence. Indeed, as a globally respected entity that holds international credibility, it could be responsible for announcing when a regime becomes dictatorial, mediating between lenders and creditors and setting a date after which all loans are deemed odious, as suggested by Kramer and Jayachandran: "debt which is issued after this declaration is considered odious "^[113]. This approach would deter future lending to such regimes and limit despots' power. The judicial body could be similar to other international courts such as the International Criminal Court who is "responsible for trying persons accused of the most serious crimes that affect the international community as a whole "^[114].

Additionally, the Dispute Settlement Body of the World Trade Organisation could also be responsible for enforcing this new legal doctrine. This judicial body wouldn't only have to vote on every law unanimously, but they would also have the right to petition the international tribunal and make them hear claims on regimes whose debt is claimed to be odious.

Indeed, Sack himself believed that two conditions must be met for a debt to be dismissed: "The new government must prove and an international tribunal recognise that the following is established: a) that the purpose which the former government wanted to cover by the debt in question was odious and clearly against the interests of the population of the whole or part of the territory, and b) that the creditors, at the moment of the issuance of the loan, were aware of its odious purpose."^[115]

Setting a date when a regime becomes odious would facilitate meeting these conditions, discouraging lending post-declaration by instilling fear of potential loss across the global community. This approach transforms the odious debt doctrine into a weapon, used deter lending responsible for empowering oppressive regimes: " suppose that the United Nations

Security Council unanimously declared that any future debt incurred by a particular dictator would be considered illegitimate and non-transferrable to successor regimes (..) this would create incentives for lenders in third countries to avoid lending to the dictator “[116].

Naturally, the judicial body’s power should be limited to declaring future debts illegitimate rather than forgiving existing ones. This approach would be beneficial as it would alleviate creditor concerns. However, even if its power would be limited, bias poses a further obstacle to its creation, as powerful nations are less likely to be labelled odious lenders due to their influence and allies. Furthermore, mistakes could occur, such as mislabeling legitimate debts. Thus, the institution should act under a “do no harm” [117] principle and require unanimous vote for any decision, but they would also have the right to petition the international tribunal and make them hear claims on regimes whose debt is claimed to be odious.

As previously stated, the United Nations Security Council, which is one of the six principal organs of the UN, could assume responsibility for addressing cases related to odious debt. The UNSC is composed of 15 members, including 5 permanent members-France, China, the Russian Federation, the United Kingdom, and the United States, in addition to 10 non-permanent members, each elected by the General Assembly for two-year terms. Granting them authority over odious debt would extend their role of maintaining peace on a global scale. The UNSC would be the best choice out of the 6 organs of the UN as it is the only one with the authority to issue resolutions that are binding on member states[118], which is why it currently holds the most legal power and is the most influential body in the international financial markets. Their role is defined by the UN Charter, giving them the permission to investigate any situation that might threaten international peace and to call upon other member nations to completely or partially interrupt economic or diplomatic relations with another nation.

The Security Council has already played a role in the past, notably in 1985, when it imposed trade sanctions on the apartheid regime. However, the apartheid regime continued to receive loans from private institutions not controlled by the UNSC, which lent at high interest rates for their own profit.

Similarly, Tadjman and Croatia received loans from commercial banks even after the IMF’s ban. These past failures highlight the need to extend the UNSC’s authority not just over nations but also private institutions, which would ensure that they are precluded from issuing odious loans.

On the other hand, a draft of articles on Succession of States in respect of Treaties, published by the United Nations in 2005, supports the idea that a successor government should not be bound by predecessors’ obligations. The term “obligations” could potentially include debt, as Article n°8 suggests that “ obligations or rights of a predecessor State under treaties in force in respect of a territory at the date of a succession of States do not become the obligations or rights of the successor States towards other States parties to those treaties in consequence only of the fact that the predecessor State and the successor State have concluded an agreement providing that such obligations or rights shall devolve upon the successor State.”[119]. Even though this draft of articles doesn’t directly pertain to financial obligations, the

underlying principle aligns with the notion that a state can be relieved of certain obligations, which shines hope on the doctrine of odious debt.

Finally, another perspective to consider is the application of private law, or domestic principles, to sovereign debt. As noted earlier, negative bequests are not legally required to be accepted by individuals. This implies that in certain cases, the legal fiction of an infinitely lived state can be broken, allowing a state to metaphorically “die” and be relieved of its debt, similar to the way an individual might be. Mitu Gulati, Lee Buchheit and Robert Thomson argued that if a debt involves bribery, a nation should be relieved of it, as enforcing such a debt would violate U.S. public policy: “Bribery, whether in a commercial,” domestic political,” or foreign governmental context, is contrary to the public policy of the United States and its constituent states.”[\[120\]](#). Consequently, while adhering to US public policy, a state could be exempted from repaying debts incurred through bribery, which aligns with the concept of odious or corrupt loans.

In conclusion, there is hope for a future in which the odious debt doctrine could be more influential. Indeed, there have been two main exceptions to the doctrine of state succession made in the past, which laid the groundwork for the categories of war debts and hostile debts. War debts are rooted in Great Britain’s decision following its victory in the Second Boer War, where it refused to repay the debts incurred by the South African Republics during the conflict. This decision inspired scholars and jurists to argue that loans used for the purpose of unnecessary war, which do not benefit the population, should not be held as the responsibility of the state. The second well-recognised event is a direct exception to the law on state succession. As a matter of fact, the 14th amendment of the United States’ Constitution, established at the end of the US Civil War, explicitly states that: “The validity of the public debt of the United States, authorised by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.”[\[121\]](#). Naturally, this statement provides a foundational framework that supports the doctrine. However, the issues that arise from it are very similar to the ones that arise from the doctrine of odious debt itself, such as a decline in trust, foreign investment and even a crash in the global financial markets.

These challenges underscore the importance of assessing the balance between the doctrine’s moral implications and its practical risks. The critical question remains whether it is worth risking economic stability and trust in global markets to achieve a world in which nations are not trapped by illegitimate debts, or irrevocably exploited for centuries.

X. Conclusion

Through this research, the different aspects of international law that govern governmental debt succession were explored. The longstanding debate surrounding the odious debt doctrine exposes its notable absence in international law, highlighting both the practical and political obstacles faced by nations undergoing regime changes, especially from despotic to democratic governance.

Debates on governmental debt succession have been relevant for several centuries, even preceding Alexander Nahum Sack's formalisation of the concept known as *odious debt* in 1927. With the intention of evaluating the relevance and necessity of this doctrine, this work includes the study of historical cases from South Africa, Iraq and Haiti. The analysis of these cases revealed that odious debts are more than just financial liabilities, they are deeply tied to dictatorship, oppression, and colonialism. Despite the clear ethical arguments favouring the contrary, the absence of a legal framework unfortunately prevents newly democratic governments from freeing themselves of debts incurred by their predecessors, which are in most cases funds used to repress citizens and strengthen despotic regimes.

Subsequently, Nelson Mandela's decision to honour apartheid-era debt in South Africa illustrates the dilemma faced by emerging democracies, where fear of tarnishing their reputations and deterring investors outweighs the pursuit of debt relief. The reputational effects of this decision were analysed using an event study method and enabled us to come to the conclusion that reputational damage does pose a threat to the implementation of the doctrine.

Iraq's experience provided an example of the devastation wrought by dictatorship, whilst illustrating the efforts undertaken by the Paris Club to alleviate its substantial debt burden. However, the negotiations undertaken between the Paris Club and Iraq's creditors, which led to the debt relief, occurred outside of international tribunals, hindering the doctrine's legitimacy, with officials refraining from justifying the relief on odious grounds.

Haiti's colonial debt to its former coloniser, France, as a price for its independence, stands as one of the most important examples of injustice in the history of sovereign debt. The absence of recognition of colonial debts in discussions surrounding the doctrine shines light on the limitations of Sack's framework, such as its lack of flexibility and adaptability. These case studies highlight the need for an internationally recognised adaptable and comprehensive doctrine, able to address all cases of odious debt succession.

Extensive research and discussion have led us to conclude that the creation of an authoritative body, perhaps under the auspices of the United Nations, could play a role in establishing clear guidelines. Indeed, a legal body could judge singular cases within an international tribunal and choose the date after which all loans to a specific regime are deemed illegitimate. The establishment of such a date could dissuade future lending to dictators, which would limit their power.



Naturally, the involvement of other institutions, such as the International Monetary Fund, as well as the exploration of the application of principles of domestic law to sovereign debt, could further enrich this proposal. Indeed, the introduction of a legal body with such functions could mitigate the global fear shared by nations of damaging their financial reputation when refusing to legitimise their predecessor's debt, reducing the risk of lenders' financial losses, and set a standard for responsible international loans.

Yet, as pointed out by Professor Panizza, the adoption of this doctrine in international law involves significant legal and economic challenges. Indeed, the lack of international consensus and the vested interests of powerful creditors, combined with the widespread belief that its adoption could lead to a crash of the sovereign debt market, create significant barriers to its implementation.

Despite these challenges, the international community faces a critical choice. They must weigh the risks and benefits of implementing this doctrine, which could be achieved through United Nations commissions or the establishment of binding treaties. As previously mentioned, the doctrine could pave a path out of poverty for many nations burdened by oppressive debt. It could also enhance global stability by reducing the willingness to lend to dictators, thereby restricting their power and limiting the damage they can inflict.

While the path to formal recognition of the odious debt doctrine is fraught with obstacles, its potential to redefine international law as we know it and promote justice is unmistakable. Rigorous analysis has led us to one simple conclusion: change is essential. The future lies in the hands of the global community and its willingness to turn this doctrine into a concrete reality.

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XII. Annexes

Annex I : Interview with Ugo Panizza, Professor of Economics, Department Head and Pictet Chair in Finance and Development at the Geneva Graduate Institute, September 2, 2024^[122]

NUCCI Eleonora: Hello, thank you for having the time to be here today and to kindly answer my questions.

PANIZZA Ugo: It is my pleasure.

NUCCI Eleonora: So, to begin with, I had a question on the current relevance of the doctrine: how do you perceive the current relevance of the odious debt doctrine in international finance and global governance? Of course, the doctrine doesn't exist but do you believe there is currently a need for it to be implemented in international law?

PANIZZA Ugo: As you correctly said, the doctrine does not exist, even if many people would like for it to be incorporated into international law. In international law we still have the standard principle that any contract made by a government binds the successive government, even if the government that made the contract was a disgusting government. However, I believe it is a truly relevant issue. You know, after a period in which the world seemed to be becoming more democratic, or at least it was becoming more democratic, there are more and more regimes which are undemocratic. We are seeing transition of countries from semi-democracy to more authoritarian regimes.

You can think of Venezuela, you can think of Türkiye. I mean, these of course are not yet regimes that we would design as all, I mean, Venezuela, not Türkiye. Thus, I think it would be important to have something established that could establish that certain debts are indeed obvious and therefore should not be enforceable.

NUCCI Eleonora: Okay, perfect. Thank you very much. Now, talking about its relevance in current matters. What are the main legal and economic challenges that governments face when attempting to classify inherited debts as odious? How would that work in international law? What would be the steps in implementing such doctrine?

PANIZZA Ugo: At this point, such a doctrine cannot be implemented because there is no major jurisdiction which recognises this doctrine of odious debt. Countries technically can refuse to pay that. And they have done so a lot and certain that have never been paid. So, like the debt issued by the Chinese imperial government of the Russian debt. Many debts have been restructured, and reduced in the past. But no court has ever accepted to adjudicate some debt, to restructure or some debt on the basis that the debt was odious. The most extreme case of

odious debt was restructured and reduced and almost completely eliminated, without applying the doctrine of odious debt was the Iraqi debt of Saddam Hussein. So, after Saddam Hussein was overthrown, most of the debt incurred by Saddam indeed was cancelled through process a UN resolution, and then a presidential decree in the US. But this debt was never officially labeled as odious.

NUCCI Eleonora: We are aware that the Paris Club played a major role in this debt relief, notably the USA, who was a member of this association. What were the claims that the US made to have such a significant relief of debt?

PANIZZA Ugo: The decision of eliminating the debt of Iraq was mostly justified on economic choices, so that Iraq needed a fresh start. It needed to rebuild its capacity in oil. It had all these debts, and this debt had to be cleared up. This debt was extremely hard to restructure because it consisted of a lot of many different claims. So, we needed some procedure for restructuring this debt. So, the official justification was more of an economic justification, the same as the country had been run by a dictatorial government, which was bad luck. The restructuring of Iraqi debt was never based on the rationale that this debt was odious.

NUCCI Eleonora: Okay, thank you. Could you discuss the potential moral and ethical implications for international creditors when dealing with debts that are incurred by oppressive regimes?

PANIZZA Ugo: This is a bit tricky, right? So, it depends which creditors you have in mind, right? So again, imagine the Paris Club. So, the Paris Club negotiates debt, which was issued by members of the Paris Club. So, in a sense, you have the US and France and Italy and Germany would lent money to Iraq at some point, fully knowing that Saddam Hussein was not the “best leader”. And then, so in a sense, it is a bit weird, they have to tell themselves that they were, you know, odious lenders, right? So that is a bit tricky. The Paris Club mostly extended loans due to political reasons. The main reason is not to make a profit on these loans. It is quite different when a private creditor lends money to a country. So, if JP Morgan or a bondholder lends money to a developing country, this is mostly done because you think that you are going to get a nice interest out of it. So, this is not dictated by, you know, a political choice, but the choice is just that the main reason is purely to make money out of the transaction.

I do not know what is better or worse. So, if I am lending to a “nasty” guy. And I know that this guy is a “nasty” guy. And I am not even trying to make money. But because, you know, this “nasty” guy might be my ally against the Soviet Union. So when the US and other countries in Europe would lend to Mobutu Sese Seko, the dictator of what was Zaire, they knew that this guy was a super “nasty” guy, but it was their ally, it was their friend against the Soviet Union, so they didn't give them money. And then there JP Morgan who could be lending to a nasty guy, just trying to make money, not for political reasons. So, the considerations that led to the lending are

completely different. The implications are slightly different, because, you know, private creditors could say.” look, if now you declare this debt odious, then I'm afraid to lend to anybody, and then I'm going to stop lending altogether, because then I'm always afraid that somebody's going to, you know, be declared obvious”. And this would result is a decrease in cash flow.

NUCCI Eleonora: There are a lot of clauses that I've read that say that a lot of people who lend to these despotic governments or leaders that are aware of the despot's intentions or actions, as you said, especially financial institutions could be searching for a profit. And without trying to gain anything politically or any alliances, they are just trying to make money. It gets tricky when trying to determine a date after which all loans issues to a certain government, who is now considered a dictatorship, are odious.

PANIZZA Ugo: You can think about two groups of people who think about the issue of odious debt.

And on the one hand, you have economists and on the other have social activists. Social activists' preference would be protecting democratic governments no matter what. Economists are a bit more careful, exactly for this reason, that, you know, if there is a lot of uncertainty on what is odious and what is not odious, then, you would risk killing the sovereign market because then people would be afraid to lend to anybody who could become obvious at some point. Economists are more critical, they think of a situation in which people would for example stop lending money to Erdogan because he has some totalitarian aspects. But then of course many other governments also have authoritarian tendencies, like Italy's semi-fascist Prime Minister.

Now, so economists have two answers to this. One way to think about it, and this was the Kremer and Jayachandran proposal, there should be a declaration of obviousness and only the debt which is issued after this declaration is considered obvious. So again, so if somebody is not officially declared as obvious, then you are fine and only debt which is issued after the obviousness declaration would be non-enforceable. This would have to be a declaration by somebody credible in the international community, could be the United Nations, it could be, you know, somebody with international credibility. Now, the United Nations's Security Council is completely split so there would be no country which would be declared obvious. Now, what you could think, you could think about creating some sort of impartial organization or, you know, having some sort of high threshold in which obviousness becomes self-evident.

PANIZZA Ugo: A famous judge was asked what pornography, and he is answered, you know, I do not know how to define it but I recognize it when I see it. So, you could think that there are certain cases in which a regime or a country has surpassed a certain threshold which there is a semi-consensus that the acting of this country is obvious and then you could consider the depth. So, there would be a grey area which you leave it out and then at some point it becomes so clear that, you know, all the landing down after this point would be obvious. Of course, this is overly complicated because you do not have a clear point. So, in the ideal world, you would

need to have some, you know, international recognised body even if it is not the UN but somebody with enough authority would declare a country to be odious or not.

NUCCI Eleonora: That was my next question that what role do you think international organisations such as the International Monetary Fund, the World Bank or even the UN should play in mediating or resolving disputes over odious debts?

PANIZZA Ugo: I don't think that the IMF and World Bank's job in this case would be to intervene, since they are mostly economic institutions. This is more of a political issue, right? So, ideally in a world in which the UN work in a unique way, you would like to have the UN to do this. So, you could think in the UN the Security Council has veto power but imagine that you could eliminate the veto power of the Security Council and have a situation in which you have a vote and 75% of the country in the UN declare a country to be odious, then you would have, you know, good reason to classify this country as odious. Now again, now it's impossible because you could have, you know, 99% of the country to vote a regime to be odious but then, you know, any country in the Security Council with veto power, so the US, Russia, China, France and the UK, I think there are the five, could simply veto this decision. The World Bank and the IMF are institutions, they are like, in a sense, like companies which are owned by their shareholders. So, this would be more the role for a political institution rather than an economic institution like the IMF and the World Bank. Now, once you declare that as odious, then this economic institution could step in and have things, you know, on the technical side but not on the political side.

NUCCI Eleonora: Okay, thank you. And what trends or shifts in international law do you foresee that could either strengthen the enforcement of the doctrine? And do you see a future in which this is possible?

PANIZZA Ugo: Now, I do not see any substantial change in international law in the short term. If this is going to change, it is going to change because a few major countries, a few major jurisdictions decide to implement such a policy. So, for instance, most international debts are adjudicated in New York or in London. So, if there were to be a change in New York law or to be a change in English law, this would have a big effect on this. This is difficult to do. But on something similar, there have been proposals recently to modify New York law. This is not an issue related to all these debts, but it is an issue that would facilitate sovereign debt restructuring in general. So, who knows, maybe something will happen.

NUCCI Eleonora: Moving on to case studies, when we look at the South Africa's case more specifically, and we look at the complex case of like apartheid era debts, what do you believe were the key factors influencing Mandela's decision to honour these debts?

PANIZZA Ugo: Well, he basically operated under the assumption that not servicing this debt and declaring this debt as odious would have had negative influences on South Africa's reputation with the international capital markets. So, the most likely reason the administration of Nelson Mandela did what they did is because they were afraid that if they had declared their apartheid debt as odious, they would have had a problem borrowing in the international capital market. I think there is even a deeper issue here that might have guided Mandela's decision. So, Mandela, when he was seen before taking over as an extremely left-wing leader, and so there were also some people who were afraid that he would try to transform South Africa into a communist country. So, he wanted to give a strong signal that he was not, you know, like a new Fidel Castro or such, that he would be a pro-market leader. And this decision was one of the decisions that he used to establish his reputation as a market-friendly person. That is my guess. I have never seen this explanation anywhere, but that's kind of what I feel reading a little bit between the lines.

NUCCI Eleonora: Thank you. And what legal precedents do you find most compelling when arguing for the classification of certain debts as odious? We talked about Iraq. What are your opinions on the apartheid debts? Many people state that the debt was also used for building infrastructure in South Africa, roads, schools, etc., etc., even if, I mean, the majority of the population did not have access to those resources. My initial thoughts were that money was tangible and even if a small and insignificant part of the loans issued to South Africa were used to invest in infrastructure, it doesn't justify the other majority used to oppress the black population.

PANIZZA: There has been a little bit of a split in these definitions of what is odious debt. Because it is true that in the original definition of Alexander Sack, it says, if a loan is, if the proceeding of a loan is used to oppress the people then this loan is odious. So, many people have thought about doing a loan-by-loan analysis. Most economists think that this loan-by-loan analysis does not make much sense, exactly because of this idea that money is tangible. And therefore, I think you should decide whether a regime as a whole is odious or if it's not, and not try to trace where an exact, you know, where some money exactly went, because then at the end, it gets complicated to split the loans based on their functions.

NUCCI Eleonora: And how do you think the international community might better support nations that are seeking to challenge debts that they consider odious without triggering economic instability?

PANIZZA Ugo: I do not think that the economic instability is a real issue, because again, these countries or regimes or that are considered odious are luckily still a small number. So, I do not think that the application of odious debt doctrine would lead to any type of international

economic instability. So, again, as I said before, this is mostly a political choice. I do not think it would have major economic consequences.

Of course, this is so when we talk about things that we never observed, it is all hypothetical, right? Because I do not know what would happen, because it has not happened so far. But, you know, from all what we know about previous episodes of debt restructuring and debt reduction, so for instance, when they during the EPIC initiative, the debt of many countries was cancelled, or, you know, when in the 1990s, the debt of many countries was heavily cut, there were no large negative effect on overall international economic stability. In fact, if anything, this led to an improvement of economic conditions.

I do not think that recognising some of the odious debt as odious without, positive global implications, again, because there is a relatively small number of countries would mostly affect the specific countries. But I do not think it would lead to economic instability either.

NUCCI Eleonora: Thank you. What do you think are potential long-term economic repercussions for nations that refuse to honour debts deemed odious by their governments? We talked about the reputational damage in terms of the international markets. Do you think that there would be any other repercussions?

PANIZZA Ugo: It really depends. So again, we have not observed what would have happened to South Africa if it had declared its debt odious.

NUCCI Eleonora: When a country upholds the debt agreements made by its previous despotic government, do you believe that that would, the country would benefit from that financially speaking?

PANIZZA Ugo: This aspect of our question, right, are you gonna suffer if you do not do it, is exactly the same as saying you are gonna benefit if you do it. I do not know if it would have happened to South Africa if Mandela had decided to pay the apartheid debt. Again, my guess is that not much would have happened, but you know, I do not know.

PANIZZA Ugo: So I can tell you something, but this is not in the context of odious debt, applicable. So, in the 1980s, every country in Latin America defaulted, with one exception, Colombia.

So, every single Latin American country did not pay its debts, Colombia paid its debt. And it is not that it decided to pay its debt because it was in a better economic situation or anything. They were really convinced, they really believed in this reputational story.

And so, they did incredible effort to pay the debt while everybody else around them was defaulting. And their idea was exactly that, you know, by paying their debt when everybody else around them was defaulting would have given them a large reputational benefit. Have you ever seen the movie Animal House?

NUCCI Eleonora: No, not yet

PANIZZA Ugo: So, in the movie *Animal House*, ask your dad he will tell you, there is a famous sentence that says, when the going gets tough, the tough get going. So, it is in a sense, it is like when things are difficult that you signal of what you are, right? And so, this was exactly the point of the Colombian policymakers, right? It is if we do a huge effort to repay when everybody else is defaulting, people will really believe that we are good people because, you know, not only we are paying what we are paying under incredibly difficult conditions. So, they were expecting this immense reputational benefit.

They were expecting that their borrowing costs would go down. And then what happened is that the markets treated Colombia exactly like they treat everybody else. So, they did not get any reputational benefit. This is not a case of odious debt. So, I do not know how it would translate to odious debt. But in that case, being supermarket friendly did not pay off.

NUCCI Eleonora: Okay, yes, I can, it could be applicable. Okay. Thank you. Moving on, how did Iraq's economy evolve post the relief and debt restructuring that occurred? Well, it is a disaster, but because it is a kleptocratic country, I do not think at the end, what happened to debt, any large implications what happened to Iraq. Iraq is a kleptocratic country managed by a bunch of "crooks". So then at the end, you know, I do not see any impact.

NUCCI Eleonora: Okay. Well, it was just to see if there was any situation in which we could observe that a country reaped benefits from a relief of debt. But Iraq is a complex case. There is evidence of countries that benefit from a relief of debt. So, there is research on this. But these are not obvious debt relief.

PANIZZA Ugo: So, these are relief of debt of countries who could not pay. So again, as I mentioned before, in the 1980s, basically all of Latin America defaulted. And these debts were cancelled eventually in the early 90s.

And after the debt was cancelled, the country started growing very rapidly. So, there is evidence that removing a heavy debt burden from a country, if it is done well, can be beneficial for the country. But again, these were all restructuring, which were not linked to obvious debt, these were all restructuring, which was just linked to excessive debt.

NUCCI Eleonora: And just the last question is on colonial debts. If I'm correct, you authored a paper about Haiti's debt of dishonour. Do you have any comments on how that is linked to the doctrine of Alexander Sack? So in that case, it was slightly different, right? Because so Haiti's debt was not really colonial debt. So colonial debt was debt which were imposed at the moment of decolonisation. It is a bit different because, Haiti had to borrow money to compensate the slaveholders, correct?



PANIZZA Ugo: So, Haiti was a slave society. So there are no white people in Haiti, basically. There was a small white community, which was a slaveholder and everybody else was pretty much a slave. So, there was this slave revolt. They kicked out the slaveholders, the slave owners. And so basically, these guys went back to France, Haiti became independent. So, Haiti was the first country, the first country to become independent out of slavery. But nobody was recognising Haiti. The French were not recognising; the Americans were not recognising. The Americans were very, very scared of Haiti. So, imagine, so this is when America just becomes an independent country. Half of the American founding fathers, Jefferson, Washington, held vast number of slaves. They were completely terrorised of a slave revolt in the US. So clearly, they were not keen on recognising Haiti. And so eventually, the French, so you are a country, so you are a small country there. Nobody's recognising you. You cannot trade, you cannot do anything. And eventually, the French told Haiti, we are going to recognize you if you compensate the slaveholders. Imagine, you are a former slave, and you have to pay the person who owned you. So, because this person no longer owns you. And so, Haiti needed this money to compensate the slaveholders. To get this money, it issued some debt in France. So it is kind of a weird story. But that is what happened. It is not the typical odious debt, because the debt was not issued by the despotic regime. But it was kind of, they were kind of forced to issue the debt, so kind of to buy their own independence, or to at least make their own independence recognised internationally.

Annex II: Values of the Rand's exchange rate from June to December 1993, from the archives of the South African Reserve Bank.

	<u>Date</u>	<u>Value(Rand)</u>
<u>June 1993</u>	1st	3.178
	2nd	3.1845
	3rd	3.186
	4th	3.189
	5th	X
	6th	X
	7th	3.1845
	8th	3.19
	9th	3.195
	10th	3.196
	11th	3.186
	12th	X
	13th	X
	14th	3.1895
	15th	3.1975
	16th	3.2215
	17th	3.229
	18th	3.2248
	19th	X
	20th	X
	21st	3.2824
	22nd	3.295
	23rd	3.3
	24th	3.32
	25th	3.315
	26th	X
	27th	X
	28th	3.33
	29th	3.324
	30th	3.338

<u>July 1993</u>	1st	3.346
	2nd	3.33



	3rd	X
	4th	X
	5th	3.37
	6th	3.3655
	7th	3.345
	8th	3.334
	9th	3.3525
	10th	X
	11th	X
	12th	3.346
	13th	3.345
	14th	3.334
	15th	3.334
	16th	3.348
	17th	X
	18th	X
	19th	3.358
	20th	3.3515
	21st	3.3665
	22nd	3.3665
	23rd	3.3795
	24th	X
	25th	X
	26th	3.3515
	27th	3.3665
	28th	3.3665
	29th	3.3795
	30th	3.3795
	31st	X

August 1993	1st	X
	2nd	3.3558
	3rd	3.345
	4th	3.3495
	5th	3.348
	6th	3.3595
	7th	X
	8th	X



	9th	3.3845
	10th	3.3745
	11th	3.3655
	12th	3.37
	13th	3.3655
	14th	X
	15th	X
	16th	3.3655
	17th	3.3675
	18th	3.373
	19th	3.3535
	20th	3.3625
	21st	X
	22nd	X
	23rd	3.3665
	24th	3.365
	25th	3.3595
	26th	3.3665
	27th	3.365
	28th	X
	29th	X
	30th	3.379
	31st	3.379

<u>September 1993</u>	1st	3.376
	2nd	3.38
	3rd	3.3795
	4th	X
	5th	X
	6th	3.3785
	7th	3.4053
	8th	3.414
	9th	3.399
	10th	3.402
	11th	X
	12th	X



	13th	3.408
	14th	3.4115
	15th	3.401
	16th	3.4105
	17th	3.4145
	18th	X
	19th	X
	20th	3.417
	21st	3.407
	22nd	3.42
	23rd	3.4385
	24th	3.4375
	25th	X
	26th	X
	27th	3.4375
	28th	3.436
	29th	3.422
	30th	3.439

<u>October 1993</u>	1st	3.449
	2nd	X
	3rd	X
	4th	3.444
	5th	3.445
	6th	3.4555
	7th	3.4515
	8th	3.4455
	9th	X
	10th	X
	11th	3.451
	12th	3.425
	13th	3.394
	14th	3.3665
	15th	3.3445
	16th	X
	17th	X
	18th	3.346
	19th	3.35



	20th	3.3535
	21st	3.3555
	22nd	3.3695
	23rd	X
	24th	X
	25th	3.361
	26th	3.37
	27th	3.3685
	28th	3.371
	29th	3.354
	30th	X
	31st	X

<u>November 1993</u>	1st	3.37
	2nd	3.3735
	3rd	3.3665
	4th	3.362
	5th	3.3745
	6th	X
	7th	X
	8th	3.36
	9th	3.3675
	10th	3.357
	11th	3.3715
	12th	3.3665
	13th	X
	14th	X
	15th	3.368
	16th	3.3615
	17th	3.36
	18th	3.3715
	19th	3.3665
	20th	X
	21st	X
	22nd	3.368
	23rd	3.3615



	24th	3.368
	25th	3.368
	26th	3.3715
	27th	X
	28th	X
	29th	3.373
	30th	3.3655

<u>December 1993</u>	1st	3.367
	2nd	3.3695
	3rd	3.373
	4th	X
	5th	X
	6th	3.3655
	7th	3.3665
	8th	3.367
	9th	3.3675
	10th	3.3675
	11th	X
	12th	X
	13th	3.371
	14th	3.3755
	15th	3.3835
	16th	3.3825
	17th	3.3715
	18th	X
	19th	X
	20th	3.3885
	21st	3.3855
	22nd	3.374
	23rd	3.378
	24th	3.378
	25th	X
	26th	X
	27th	3.3905
	28th	3.399

	29th	3.398
	30th	3.398
	31st	3.399

The values of the Rand's exchange rate, relative to the US dollar, allowed me to examine the currency's evolution through time. On a larger scale, these values enabled us to draw a conclusion regarding a potential negative repercussion of the legalisation of the doctrine of odious debts.

Here is a graph pinpointing the Rands exchange rate from June 1st 1993 to December 1st 1993.





The arithmetic averages of each week, with 7 significant digits are presented in this table:

Week	Value(Rand)	Week	Value(Rand)
1	3.184375	16	3.409100
	3.190300		3.422700
	3.212460		3.433500
	3.302800		3.448200
5	3.333600	20	3.378625
	3.342100		3.354900
	3.353900		3.364900
	3.342900		3.369300
	3.361800		3.369300
10	3.360600	25	3.361300
	3.372200		3.365800
	3.355600		3.364000
	3.364300		3.382200
	3.378625	29	3.395833
15	3.399400		

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