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The Doctrine of the “Odious Debt”

From Alexander Sack to the CADTM

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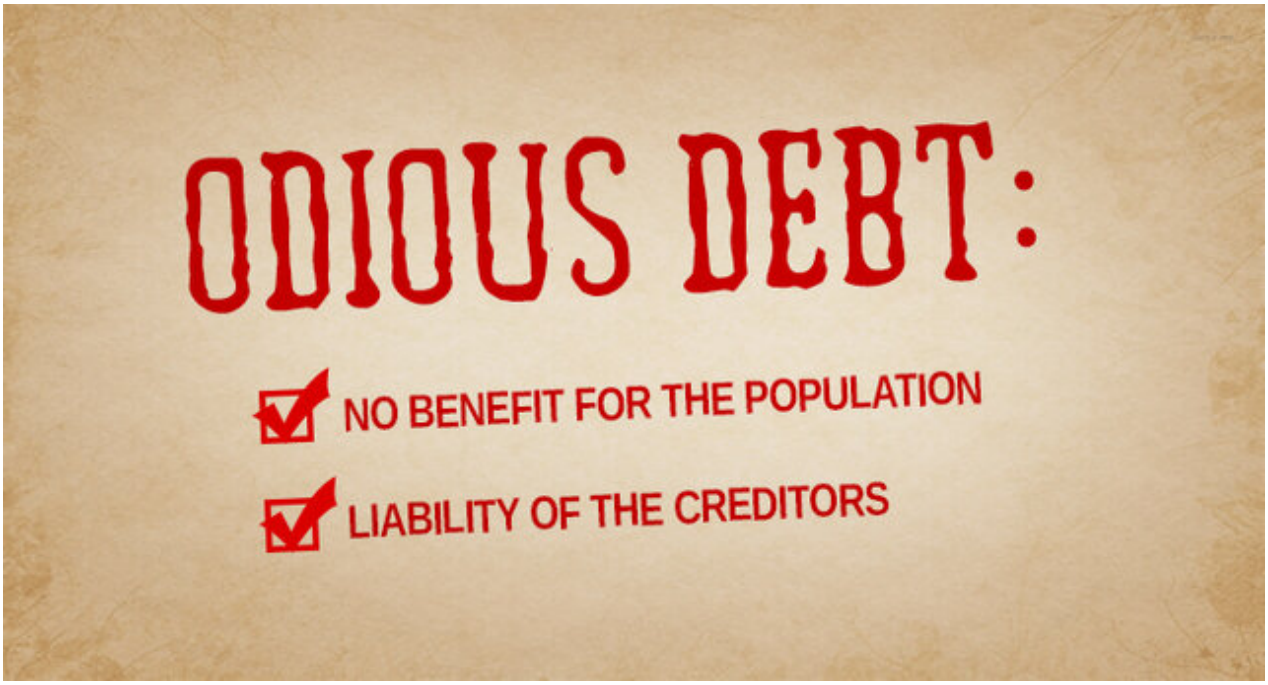
Alexander Nahum Sack (Moscow 1890 – New York 1955), a Russian lawyer who taught in Saint Petersburg then in Paris, is considered to be one of the founders of the doctrine of odious debt. The doctrine, based on a series of precedents in jurisprudence, has come in for a lot of debate.

So, what is Alexandre Sack’s concept of odious debt?

The excerpt from Sack’s book on the subject that is the most referred to can be confusing.

> “If a despotic power contracts debt, not for the needs and interest of the State, but to strengthen its despotic regime, to oppress the population that combats it, that debt is odious for the whole State. The debt need not be recognised by the Nation: it is a debt of the regime, a personal debt of the power that contracted it and consequently falls along with the power that contracted it.” (p. 157). |1| “These ‘odious’ debts cannot be considered to be a liability of the State’s territory because one of the necessary conditions that determine the regularity of State debt is missing; a State’s debts must be incurred and the funds thus made available used for the needs and in the interests of the State (see above, § 6). ‘Odious’ debts incurred and used, with creditors’ foreknowledge, for purposes that are not in the interests of the Nation do not engage the Nation, should the Nation rid itself of the government that incurred them (…). The creditors have committed a hostile act towards the people; they cannot therefore hold the people responsible for the debts that a despotic power incurred against the people’s interest and are the personal debts of the despotic regime.” (p. 158).



Many of the remarks on this excerpt conclude that Sack pretends that for a debt to be "odious" it has to be contracted by a despotic regime. This is not Sack's position. In fact, as a lawyer he considered that several circumstances could give rise to debt of an odious character. The above quote mentions only one possible circumstance.

The CADTM and myself have committed the error of thinking that Sack considered a despotic regime to be a *sine qua non* condition of odious debt. We disagreed with Sack on this point and have often expressed our disagreement. It is a possible and aggravating condition. This misunderstanding came about because of the most widespread of the interpretations of Sack's doctrine. Authors, such as Sarah Ludington, G. Mitu Gulati and Alfred L. Brophy noticed this error even if they themselves do seem to think that Sack included the despotic nature of a regime as a necessary condition of odious debt in error. |2| They are convinced that the despotic nature of a regime must not be included in the

conditions that define an odious debt. They go on to say, as we have already said, that ex-president Taft when judging on the Tinoco affair did not put the despotic nature of the Tinoco regime into the considerations. |3| In her article "The Doctrine of Odious Debts in International Law", the jurist Sabine Michalowski correctly summarises Sack's criteria. She does not include among them the despotic nature of the regime. |4|

Five pages further on Sack gives more general criteria for defining an odious debt. In this wider definition, he does not mention despotic regimes: "*Consequently, for a debt, regularly incurred by a regular government (see above, §§ 1 and 5) to be considered incontestably odious with all the consequences that follow, the following conditions must be fulfilled (see also above, § 6* in fine*):*

1. — 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.

2. — once these two points are established, the burden of proof that the funds were used for the general or special needs of the State and were not of an odious character, would be upon the creditors (see also p. 170)."

Here, Sack very clearly says that a regular government's debts may also be odious: *"for a debt, regularly incurred by a* regular government *to be considered incontestably odious with all the consequences that follow,..."*

Sack defines a regular government as follows:

> "By a regular government is to be understood the supreme power that effectively exists within the limits of a given territory. Whether that government be monarchical (absolute or limited) or republican; whether it functions by "the grace of God" or "the will of the people"; whether it express "the will of the people" or not, of all the people or only of some; whether it be legally established or not, etc., none of that is relevant to the problem we are concerned with."(p. 6)

So, in fact, there is no doubt about Sack's position: that a regime be despotic is not a *sine qua non*condition that makes debts odious and susceptible to repudiation. |5| According to Sack, all regular governments, whether despotic or democratic of some kind, may be accused of having agreed to odious debts. |6|

What does Sack mean by "a non-regular government"? Answer: A government that does not exercise control over the whole territory, such as a rebel coalition that attempts to overthrow the existing regular government. The emblematic example are the Southern US States (the Confederate States) that rebelled against the United States, which was a regular government. It therefore follows that the debts incurred by the Southern States were personal debts of the Southern insurgents, not debts that the United States should assume.

If the Confederates had won the 1861-1865 Civil War they would have become the new regular government in place of the United States. |7|

What are the two criteria that establish a debt as odious? Looking again at Sack's remarks we see: — *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.

We can summarise as: a debt is odious if it has been incurred against the interests of the population and the creditors were aware of this at the time.

In an opinion published in 2002 by the IMF review *Finance & Development* Michael Kremer and Seema Jayachandran define the odious debt doctrine as:

> "The legal doctrine of odious debt makes an analogous argument that sovereign debt incurred without the consent of the people and not benefiting the people is odious and should not be transferable to a successor government, especially if creditors are aware of these facts in advance." |8|

This summary is at first sight convincing and does not mention, as an obligatory condition, the despotic nature of a regime. However, closer scrutiny shows that one of the conditions mentioned by the authors is not mentioned by Sack. |9| Namely: *"it is incurred without the consent of the people."* The fact that Sack does not mention this condition is quite coherent with his position that the nature of the government is of no importance in this matter.

If some readers still have doubts about Sack's position concerning despotic regimes, here is another quote: *"Even when a despotic power is overthrown by another despotic power that is no less despotic and no more reflective of the will of the people, the odious debts of the fallen power remain the personal debts of the regime and the new power is not liable for them"* (p. 158). For Sack only the purpose of the funds and the creditors' knowledge of that purpose are the important elements.

Sack's comments on several debt repudiations and abolitions

As examples of odious debts, Sack cites debts that have personally enriched government representatives, and creditors' dishonest machinations:

> "We can also put into this category of debt, loans clearly incurred in the personal interest of government members or persons and groups related to government for purposes that are not related to the government."(p. 159)

Sack says immediately after this that debts of this kind were repudiated in the US in the 1830s, as we have seen.

> "Cf. the case of the repudiation of certain debts by several North American States. One of the main reasons justifying these repudiations was the squandering of the sums borrowed: they were usually borrowed to establish banks or build railways; but the banks failed and the railway lines were never built. These questionable operations were often the result of agreements between crooked members of the government and dishonest creditors." (p. 159).

Note that in this particular case that involved four different States, these debts were not incurred by despotic governments. |10|

Sack gives another example *"When a government incurs debt for the purpose of subjugating the population of a part of its territory or to colonise the same by its own colonists. These debts are odious for the indigenous population of that part of the territory."* (p. 159)

Sack mentions and comments on several cases. He starts by highlighting the fact that among the reasons the US repudiated the debts that Spain claimed on Cuba was that they had been used to maintain their colonial domination over the Cuban people. |11|

Then Sack looks at two debt abolitions that were decided in application of the Versailles treaty signed on 28 June 1919. The first concerned German and Prussian debts incurred in order to colonise Poland and to install Germans on land purchased from Poles. Following the defeat of Germany an independent Poland was restored. The Versailles treaty decreed that newly freed and independent Poland should not be held liable for debt that had been used to impose its own colonisation and subjugation. Sack had reservations about this proviso; he considered that a part of the debt should not have been abolished because it was not odious:

> "The borrowing of the Prussian government over the thirty years of its colonial occupation was for the purpose of the general budget or, at least, was not for odious purposes. These debts cannot be considered as 'odious'." (p. 164)

Sack then comments on a second debt abolition in the Versailles treaty. The German empire was relieved of its African colonies and their debts were abolished. However, the colonies were not emancipated – they came under the control of the victorious powers. About this, Sack cites an extract of the reply that the Allies made to Germany, which was not inclined to accept forgiveness of the debt of its ex-colonies, because Germany would have to continue the repayments itself. The Allies replied:

> "The colonies should not bear any portion of the German debt, nor remain under any obligation to refund to Germany the expenses incurred by the Imperial administration of the protectorate. In fact, it would be unjust to burden the natives with expenditure which appears to have been incurred in Germany's own interest, and that it would be no less unjust to make this responsibility rest upon the Mandatory Powers which, in so far as they may be appointed trustees by the League of Nations, will derive no benefit from such trusteeship." |12|

Here are two more comments by Sack:

> "These considerations do not seem to be totally founded. Even if the spending was done in German interests it does not necessarily follow that it was odious for the colonies (…)" (p. 162). He adds: "We can question whether it is just, (…) that the colonial debt not be put to the charge of the respective colonies, seeing that much of the funds were used on productive spending in the colonies." (p. 161).

What really highlights Sack's conservative, Eurocentric and colonialist attitude is that he makes no reaction to the Allies' affirmation that they gain nothing from exercising their new protectorates over Germany's ex-colonies. What's more, the Allies consider that expenditures for the colonies were productive. Whereas, in fact, they were used to rule over the peoples and to draw maximum profits towards the colonial powers.

Can we really talk of "Sack's odious debt doctrine"?

If we consider that a "doctrine" designates the totality of the opinions expressed by legal experts as the result of their reflection on a given rule or situation; if elaborating a doctrine means *"A legal framework, defining it, placing it within the context of the law, defining its limits, its practical application, the social effects and at the same time making a systematic, analytical, critical and comparative examination"*, |13| it is justified to consider that Sack has elaborated an odious debt doctrine.

To elaborate his doctrine he referred to an ample quantity of international treaties pertaining to arbitrations on questions of debt repayments concluded between the end of the 18th century and the 1920s; he analysed the way disputes over debt had been treated and the legal, administrative and judicial measures taken; he collected and classified the opinions of numerous authors (in fact, only Europeans and Americans) who had studied the question. He presented his vision of the nature of debts, the obligations of the debtors and the rights of the creditors, the relations between successor States, the way debts and the effects of regime changes were shared, and defined the criteria for odious debts.

The doctrine is open to criticism, has weaknesses, gives priority to creditors and does not consider human rights, but it does have a certain coherence. It must also be said that, although disparaged by influential detractors (the mainstream media, the World Bank and numerous governments), it inspires numerous movements who look to Sack's work for solutions to debt problems. Sack's two criteria for determining that a debt is odious and a nation may decide not to pay, are applicable and justified.

Henceforth, we must now go beyond Sack's doctrine using that which is applicable and rejecting that which is unacceptable and adding elements related to the social and democratic advances that have been made in international law since the Second World War.

What must also be added straight to the odious debt doctrine is the liability of the creditors; they regularly violate the established treaties and other international instruments for the protection of rights. The IMF and the World Bank have continually and deliberately imposed policies on debtor counties that violate many fundamental human rights. The Troika that was established in 2010 to impose brutal austerity policies on Greece dictated laws that contravene several National and International conventions on rights. The creditors are more than just accomplices to illegal and sometimes frankly criminal acts committed by governments. They are in some cases the instigators of the acts.

The experience that has been accumulated since Sack made his studies indicates that

several of Sack's positions may now be updated. A fundamental point that must now be rejected is the continuity of a State's liabilities, even in the case of a change in the regime. |14| Of course Sack is in favour of recognising an exception – odious debt. But that is insufficient. Another point to reject is Sack's support for the current international financial system.

Finally, Sack considers that a sovereign State may not unilaterally repudiate debts it has identified as odious without a ruling by a competent international court (See above passage: "*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.").*Since Sack made this proposal, no international court of the sort has been created. Numerous proposals have been made, but none have been brought to fruition. Experience shows that another way must be chosen: a sovereign State that discovers that it has an odious debt can and should repudiate it unilaterally. The first steps towards this goal would be to suspend payments and to conduct an audit with the participation of the citizens.

A new doctrine of illegitimate, illegal, odious and unsustainable debt needs to be elaborated. Movements such as the CADTM have taken on the task in collaboration with many other associations, and in bringing together a wide variety of competences. The following is a large extract of the position adopted by CADTM in 2008 |15| and which still remains pertinent:

*"Several authors have further sought to develop the works of Sack and to adapt this doctrine to the present context. For example, the Centre for International Sustainable Development Law (CISDL) of McGill University in Canada, has proposed this general definition: "Odious debts are those that have been incurred against the interests of the population of a State, without its consent and with full awareness of the creditors." |16| Jeff King |17| based his analysis on these three criteria (absence of consent, absence of benefit, awareness of creditors), and cumulative calculation, to propose a method to categorise these odious debts.While King's analysis is interesting in many respects, |18| we argue that it is deficient, since it does not allow for the inclusion of all debts that should be qualified as odious. In fact, according to King, the mere establishment of a government by free elections is enough to disqualify its debts from being categorised as odious. However, history shows, through Hitler in Germany, Marcos in the Philippines or Fujimori in Peru, that "democratically" elected governments can be violent dictatorships and commit crimes against humanity.*It is thus necessary to analyse the democratic character of a debtor State beyond its appellation: any loan must be considered odious, if a regime, democratically elected or not, does not respect the fundamental principles of international law such as fundamental human rights, the sovereignty of States, or the absence of the use of force. The creditors, in the case of notorious dictators, cannot plead their innocence and demand to be repaid. In this case, the purpose of the loans is not fundamental for the categorisation of the debt. In fact, financially supporting a criminal regime, even for hospitals and schools, is tantamount to helping the regime's consolidation and self-preservation. Firstly, some useful investments (roads, hospitals…) can later be used to odious ends, for example, to sustain war efforts. Secondly, the fungibility of funds makes it possible for a government that borrows to serve the population or the State – which, officially, is always the case – to generate other funds for less noble goals.

The nature of regimes aside, the purpose of funds should suffice to qualify debts as odious, that is, whenever these funds are used against the populations' major interests or when they directly enrich the regime's cohorts. In this case, the debts become personal debts, and not those of the State which is represented by its people and its representatives. Let's recall one of the conditions of debt regulation, according to Sack: "the debts of State have to be incurred and the funds that are derived must be used for the needs and in the interests of the State." Thus, multilateral debts incurred within the framework of structural adjustments fall into the category of odious debts, since the destructive character of these debts has been clearly shown, namely by UN agencies |19|.

In fact, considering the development of international law since the first theorisation of odious debt in 1927, odious debts can be defined as those incurred by governments which violate the major principles of international law such as those included in the Charter of the United Nations, the Universal Declaration of Human Rights, and the two complementing covenants on civil and political rights and economic, social and cultural rights of 1966, as well the peremptory norms of international law (jus cogens). This affirmation is confirmed by the 1969 Vienna Convention on the Laws of Treaties, whose article 53 allows for the cancellation of acts which conflict with jus cogens |20| and which also accounts for the following norms: prohibition of wars of aggression, prohibition of torture, prohibition to commit crimes against humanity and the right of peoples to self-determination.

This spirit infuses the definition proposed by the Special Rapporteur Mohammed Bedjaoui in the report on the succession of State debts to the 1983 Vienna Convention: "From the point of view of the international community, odious debt is understood as any debt incurred for purposes that contradict contemporary international law, particularly the principles of international law incorporated in the UN Charter." |21|

Thus, the debts incurred by the apartheid regime in South Africa are odious, since this regime violated the UN Charter, which defines the legal framework of international relations. In a resolution adopted in 1964, the UN had asked its specialised agencies, including the World Bank, to cease financial support of South Africa. In contempt of international law, the World Bank ignored this resolution and continued to lend to the Apartheid regime. |22|

International law also stipulates that debts resulting from colonisation are not transferable to newly independent states, in conformity with Article 16 of the 1978 Vienna Convention *that says "A newly independent State is not bound to maintain in force, or to become a party to, any treaty by reason only of the fact that at the date of the succession of States the treaty was in force in respect of the territory to which the succession of States relates". Article 38 of the 1983 Vienna Convention on the succession of states in respect of States Property, Archives and Debts (not yet applicable) is quite explicit in this respect:*

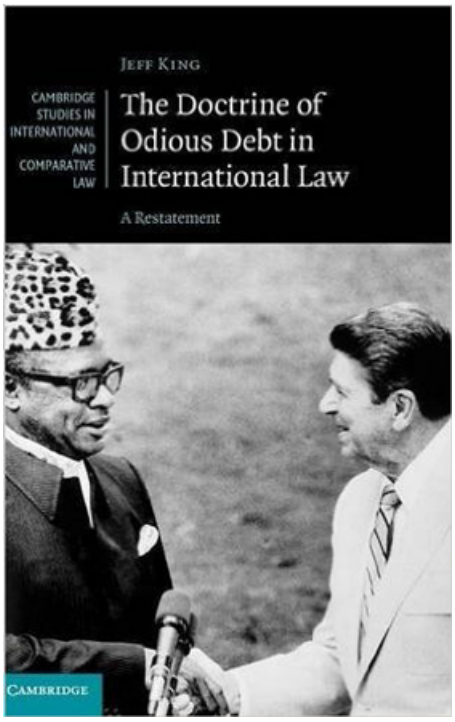
1. "When the successor State is a newly independent State, no State debt of the predecessor State shall pass to the newly independent State, unless an agreement between them provides otherwise in view of the link between the State debt of the predecessor State connected with its activity in the territory to which the succession of States relates and the property, rights and interests which pass to the newly independent State".
2. "The agreement referred to in paragraph 1 shall not infringe the principle of the permanent sovereignty of every people over its wealth and natural resources, nor shall its implementation endanger the fundamental economic equilibrium of the newly independent State".

It should be kept in mind that the World Bank is directly involved in some colonial debts since in the 1950s and 1960s it generously loaned money to colonial countries for them to maximise the profits they derived from colonial exploitation. It must also be noted that the debts granted by the World Bank to the Belgian, French and English authorities within their colonial policies were later transferred to the newly independent states without their consent. |23|

Moreover it did not comply with a 1965 UN resolution demanding that it stop its support to Portugal as long as this country maintains its colonial policy.

We must also define as odious all debts incurred in order to pay back odious debts. The New Economic Foundation |24| rightly considers that loans contracted in order to pay back odious loans are similar to a laundering operation. Auditing debts will determine which loans are legitimate.

While there are dissensions on the definition of odious debts, the legal debate takes nothing away from its relevance and cogency. On the contrary, such debate reflects just what is at stake for both the creditors and the debtors and is simply the transfer of conflicting interests onto a legal level. Several cases have shown that the notion of odious debt is a legally valid argument not to pay debts."



The list of debt abolitions or repudiations that evoke, in one way or another, the argument of their illegal, illegitimate or odious character is long.

Without claiming to be exhaustive we may nevertheless mention |25|: the three waves of debt repudiations by the United States in the 1830s, 1860s and 1870s; the Mexican debt repudiations in 1861,1867,1883 and in the 1910s; the repudiation by Peru of the debt reclaimed by the Parisian bankers 'Dreyfus'; the 1898 repudiation by Cuba of the debt reclaimed by Spain; the repudiation by the British of the debt reclaimed on the Boers after the conquest of the Boer Republics in 1899-1900; the repudiation by the Bolsheviks in 1918 of the debt left by the Tsars; the repudiation of Germany's debts on Poland and its African colonies in 1919; the abolition of the debt of the part of Poland that was colonised by the Tsarist Empire; the abolition, by the Bolsheviks in 1920, of the debt of the three Baltic States and of Persia; the repudiation by Costa Rica in 1922-23 of the debt reclaimed by The Royal Bank of Canada; the large debt repudiations made by Brazil and Mexico in 1942-43; the Chinese debt repudiations in 1949-52; the repudiation by Indonesia of the debt reclaimed by the Netherlands in 1956; the repudiations by Cuba in 1959-60; the repudiation of the colonial debt by Algeria in 1962; the three Baltic Republics' repudiation of the debts reclaimed, this time by the other former members of the USSR, in 1991; the abolition of Namibia's debt, by Nelson Mandela's South African government in 1994; the abolition of Timor-Leste's colonial debt in 1999-2000; the abolition of 80% of Iraq's debt in 2004; Paraguay's repudiation of debts reclaimed by Swiss banks in 2005 |26|; Norway relaxing its claims on five countries (Ecuador, Peru, Sierra Leone, Egypt and Jamaica) calling for repayment of debts concerning the production and delivery of fishing boats in 2006; |27| the abolition, in 2009, of the part of the Ecuadorian debt that had been identified as non-legitimate by the 2007-2008 debt audit Commission.

Bibliography of other important works of Alexander Nahum Sack as published by himself in 1927:

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Notions on Financial Law and the Science of Finance, Yaroslavl, 1913, 42 p. (in Russian).

The Role of Legislative Bodies in the Control of Russian and Foreign State Banks, Yaroslavl, 1913, 36 p. (in Russian).

The Germans and German Capital in Russian Industry, St Petersburg, 1913, 67 p. (in Russian).

The Central Lending Banks and Banking Associations, St Petersburg, 1914, 171 p. (in Russian).

Financing Agricultural Reform, Petrograd, 1917, 57 p. (in Russian).

Russian and Foreign Railway Bond Issue Rights Petrograd, 1917, 47 p. (in Russian).

The Circulation of Money in Russia, Petrograd, 1918, 123 p. (in Russian).

The Bankrupt State, Petrograd, 1918, 128 p. (in Russian).

The Issue of Public Debt in the Case of State Dislocation, Berlin, 1923 (The works of Russian researchers abroad, t. III), 158 p. (in Russian).

The Problem of Money Reform in the Baltic States Kiel, 1924,13 p.(In German)

Fixing the Value of Money, Riga, 1925, 50 p.

The Debt Engagement of the Austro-Hungarian Monarchy, Kiel, 1926, 22 p."(In German)

All Russian titles translated from French form by CADTM

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Footnotes

|1| *Les effets des transformations des États sur leurs dettes publiques et autres obligations financières : traité juridique et financier*, Recueil Sirey, Paris, 1927.
See : http://cadtm.org/IMG/pdf/Alexander_Sack_DETTE_ODIEUSE.pdf

|2| Sarah Ludington, G. Mitu Gulati, Alfred L. Brophy, 'Applied Legal History: Demystifying the Doctrine of Odious Debts',
2009, http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5511&context=faculty_scholarship

|3| Eric Toussaint, 'What other countries can learn from Costa Rica's debt repudiation', published on 1 November 2016, http://www.cadtm.org/What-other-countries-can-learn

|4| Her text is a part of an interesting collective work entitled *How to Challenge Illegitimate Debt Theory and Legal Case Studies* edited by Max Mader and André Rothenbühler for Aktion Finanzplatz

Schweiz (AFP). It is available
here: https://asso-sherpa.org/sherpa-content/docs/programmes/FFID/GT/Debt.pdf

|5| Another quote from Sack clearly confirms that he was opposed to the despotic nature of a regime being a condition *sine qua non* to identify an odious debt: "*Applying other conditions than those we have established (p. 6-7) would, through arbitrary, differing and contradictory judgements, bring about the paralysis of the whole international public credit system and so (if such judgements were to have real weight on questions of recognising or of not recognising debts as State debts) would deprive the World of the advantages of public credits."* (p. 11).

|6| What does Sack mean by "a non-regular government"? Answer: A government that does not exercise control over the whole territory, such as a rebel coalition that attempts to overthrow the existing regular government. The emblematic example are the Southern US States (the Confederate States) that rebelled against the United States, which was a regular government. It therefore follows that the debts incurred by the Southern States were personal debts of the Southern insurgents, not debts that the United States should assume. If the Confederates had won the 1861-1865 Civil War they would have become the new regular government in place of the United States.

|7| On the repudiation of the Southern States' debts, see: Eric Toussaint, 'Three Waves of Public-Debt Repudiations in the USA during the 19th Century', published on 7 November 2016, http://www.cadtm.org/Three-Waves-of-Public-Debt

|8| IMF, Michael Kremer and Seema Jayachandran, "Odious Debt" *Finance & Development,* June 2002, Washington DC, www.imf.org/external/np/res/...

|9| Of course, it is perfectly legitimate that Michael Kremer and Seema Jayachandran add any new conditions that they may consider necessary. We regularly see consent obtained by the manipulation of public opinion or by the fanaticism of a majority of the population.

|10| See Eric Toussaint, 'Three Waves of Public-Debt Repudiations in the USA during the 19th Century', published on 7 November 2016, http://www.cadtm.org/Three-Waves-of-Public-Debt

|11| Eric Toussaint, 'The USA's repudiation of the debt demanded by Spain from Cuba in 1898: What about Greece, Cyprus, Portugal, etc.?', published on 8 September 2016, http://www.cadtm.org/The-USA-s-repudiation-of-the-debt

|12| Source: *Treaty Series,* no. 4, 1919, p. 26. quoted by Sack, p. 162.

|13| Serge Braudo, *Dictionnaire du droit privé*, http://www.dictionnaire-juridique.com/definition/doctrine.php (in French)

|14| See Odette Lienau, *Rethinking Sovereign Debt: Politics, Reputation, and Legitimacy in Modern Finance*, Harvard, 2014

|15| This CADTM statement has been translated by Judith Abdel Gadir, Elisabeth Anne, Christine Pagnoulle and Diren Valayden.

|16| Khalfan et al. "Advancing the Odious Debt Doctrine", 2002, quoted in Global Economic Justice Report, Toronto, July 2003

|17| Jeff King, *"Odious Debt: The Terms of Debate"*

|18| Namely, King proposes the undertaking of audits to determine the absence or not of benefits.

|19| See Eric Toussaint, Your Money or Your Life. The Tyranny of Global Finance, Haymarket in Chicago (2005), VAK in Mumbai (2006).

|20| Article 53 states: “A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.”

|21| Mohammed Bedjaoui, “Ninth report on succession on States on matters other than treaties” A/CN.4/301et Add.l, p. 73.

|22| See Eric Toussaint, *The World Bank: A Critical Primer.* London: Pluto Press 2007.

|23| See Eric Toussaint, *op. cit.*

|24| See the report by the New Economics Foundation, “Odious Lending: Debt Relief as if Moral Mattered”, p. 2: “*The result is a vicious circle of debt in which new loans have to be incurred by successive governments to service the odious ones, effectively ‘laundering’ the original loans. This defensive lending can give a legitimate cloak to debts that were originally the result of odious lending”*. Available at www.jubileeresearch.org/news/Odiouslendingfinal.pdf

|25| Some of these examples are listed by Jeff King in *The Doctrine of Odious Debt in International Law. A Restatement*, Cambridge University Press, 2016.

|26| Hugo Ruiz Diaz Balbuena, ’La décision souveraine de déclarer la nullité de la dette ou la décision de non paiement de la dette : un droit de l’État (The decision to declare a debt null and void or default on its payment is a State’s sovereign right)’, 7 July 2008, http://www.cadtm.org/La-decision-souveraine-de-declarer (in French)

|27| CADTM – ’CADTM applauds Norway’s initiative concerning the cancellation of odious debt and calls on all creditor countries to go even further’, published on 10 October 2006 , http://www.cadtm.org/CADTM-applauds-Norway-s-initiative

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