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# The Odious Haitian Independence Debt

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**Abstract:** This article introduces the Haitian Independence Debt of 1825 to the odious debt and sovereign debt literatures. We argue that the legal doctrine of odious debt is surprisingly and perhaps indefensibly narrow, possibly because of historical contingency rather than any underlying logic or principle. The story of the Haitian Independence Debt of 1825 serves as an illustrative case study. In the context of telling that story, we provide estimates of the evolution of Haiti's external debt-to-GDP ratio over 1825–2020, and discuss the implications of the independence debt for the economy of Haiti. We conclude by discussing the implications of Haiti's Independence Debt for the doctrine of odious debt and the possibilities for Haiti to recover compensation.

**Keywords:** Haiti, odious debt, debt and growth

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# 1 Introduction

In 1804, after a brutal independence struggle, the enslaved population of Haiti won independence from France. Two short decades later, the new country was mired in debt to its former colonial ruler. In 1825, Haiti agreed to pay the French government an indemnity of 150 million francs, and to grant preferential treatment to French imports, “to compensate the former colonists who will claim compensation” for the loss of their property (meaning, most notably, the formerly enslaved Haitians themselves) (Obregón 2018). It is less clear what Haiti got in return. King Charles X agreed to grant “the full and entire independence of [the Haitian] government,” although he did not explicitly grant recognition to the new state itself (Payton 2020).<sup>1</sup> What is clear is that French gunboats lurked in the harbor as Haiti formally agreed to pay the indemnity (Weidemaier and Gulati 2020).

Odious debts, colloquially speaking, are debts imposed on a populace that yield them little benefit. By any reasonable definition, the Haitian Independence Debt would seem to be odious. The circumstances suggest a degree of coercion, as does the fact that the agreement obliged Haitians to pay compensation for the freedom they had already won. The amount has been reported at around 300% of Haitian GDP (270% in our estimates), and it was understood that Haiti could pay only by borrowing vast sums from French banks, thus transforming the indemnity into a debt burden that would persist for generations.<sup>2</sup> It is hard to characterize the

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<sup>1</sup> Language explicitly granting recognition was included in the 1838 Treaty of Peace and Friendship that reduced the remaining Haitian debt to 60 million francs.

<sup>2</sup> As French economist Thomas Piketty (2020) writes, in a blog post about righting such historical wrongs:

The most extreme injustice is undoubtedly the case of Saint Domingue, the jewel of the French slave islands in the 18th century, before their insurrection in 1791 and their proclamation of independence in 1804 under the name of Haiti. In 1825, the French state imposed a considerable debt on the country (300% of the Haitian GDP at the time) to compensate the French owners for their loss of slave property. Threatened with invasion, the island had no other choice but to comply and to repay this debt which the country dragged like a millstone until 1950, after multiple re-financing and interest paid to French and American bankers. Haiti is now requesting that France refund this iniquitous tribute (30 billion Euros today, which does not include the interest) and it is difficult not to agree with them. France refuses all discussion on the subject of a debt which France had imposed on Haitians (as a fine) for having wanted to put an end to their slavery. The payments made from 1825 to 1950 are well documented and are not challenged by anybody. Today compensation payment is still being made for spoliation which occurred during the two world wars. There is inevitably a risk of creating a huge feeling of injustice.

debt as in the best interest of the Haitian people. Yet we see little mention of it in the literature on odious debt or, indeed, in the larger literatures on sovereign debt or debt and development.<sup>3</sup> To be sure, authors writing in French examine the intertwined history of Haiti and France and often discuss the Haitian Independence Debt (e.g., Brière 2006; Joachim 1971). Likewise, articles in the popular press occasionally ask whether France owes compensation to Haiti for the episode (BBC 2010; Daut 2021; Sperling 2017). But these discussions have not yet made their way to the general sovereign debt literature or into the sub-field examining the doctrine of odious sovereign debt. Nor have they prompted a deeper examination of whether that doctrine should extend to debts imposed by former imperial powers in the context of independence and decolonization.

From one perspective, it is not surprising that the odious debt literature overlooks the Haitian Independence Debt. The standard model of odious debt presumes corruption in the borrower government. A classic example asks whether a state must repay a loan after a despotic former ruler absconds with the loan proceeds (Buchheit, Gulati, and Thompson 2007; King 2016). The Haitian Independence Debt does not fit this model. Still, it is puzzling that the literature on “odious” sovereign debts ignores perhaps the single most *odious* sovereign debt in history.<sup>4</sup> And, as we explain in this paper, there is nothing about the doctrine of odious debt that requires this result.

In what follows, we use the Haitian Independence Debt of 1825 to reflect on the meaning of odious sovereign debt and the legal right to compensation for the harms of colonial rule. Thinking about this debt reveals a gap in the current conception of the odious debt doctrine, which we suspect is a function of the context in which ideas about an odious debt doctrine arose. We raise two fundamental questions. First, the modern conception of odious debt is limited to the scenario in which a despotic leader incurs debt that does not benefit the populace. We question whether there is a principled basis for this limitation. When the creditor bears primary responsibility for imposing or failing to prevent such an unproductive loan, why should it matter whether the borrower is governed by a despot? Second, there is a literature examining debates over the legitimacy of debts inherited by these newly-independent states (e.g., Mallard 2021; Waibel

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<sup>3</sup> To the extent Haiti factors into the sovereign debt literature, it is in the context of gunboat diplomacy and the U.S. takeover occupation of the country in 1915, purportedly to protect U.S. economic interests. These discussions draw on an extensive historical literature (e.g., Hudson 2018; Plummer 1988, 1992). Yet interest in the Haitian Independence Debt among academics in other fields (e.g., Daut 2020; Obregon 2018; Piketty 2020) has not spilled over into the sovereign debt literature.

<sup>4</sup> A competitor in terms of odiousness, that is also largely ignored in the odious debt literature, is the debt incurred by King Leopold II as part of his brutal rule of the Congo (Blocher, Oosterlinck, and Gulati 2020).

2021). We extend this literature to ask what a more expansive conception of odious debt doctrine would have to say about a broad range of obligations arising from the struggle for independence and the process of decolonization.

In the course of raising these questions, we also contribute to the literature by using archival research and different sources to assemble a long series on Haiti's GDP and external debt and by trying to assess the economic cost of the 1825 French debt. Our back of the envelope calculations suggest that this cost is large, somewhere between \$3 billion and \$50 billion.

The rest of the paper is organized as follows. Section 2 summarizes the odious debt literature and discusses its applicability to the Haitian Independence Debt. Section 3 describes the story of Haiti's 1825 debt and provides estimates of the evolution of Haiti's external debt-to-GDP ratio over 1825–2020. This section also evaluates the implications of the independence debt for the economy of Haiti. Section 4 concludes by discussing the implications of Haiti's Independence Debt for the doctrine of odious debt and for potential compensation for Haiti.

## 2 Odious Debts and the Misbehaving Lender

One objective of this paper is to introduce the Haitian Independence Debt to a literature that has long overlooked it. To do this, it helps to have background on the odious debt doctrine. In this section, we introduce the doctrine and identify a plausible economic rationale to justify it, which stems from the insight that, compared to the borrower's populace, creditors are often better able to prevent the incurrance of odious debt. In such cases it makes sense to impose the risk of loss on creditors. We explain that, given this underlying justification, the legal doctrine of odious debt is surprisingly and perhaps indefensibly narrow. Finally, we attribute the narrow scope of the doctrine to historical contingency rather than to any underlying logic or principle.

### 2.1 The Law of, and Rationale for, Odious Debt

The literature on odious debt asks whether a state must repay a loan incurred in its name by a prior, despotic regime, when the lenders knew or should have known that the funds would not be used to benefit the state's population.<sup>5</sup> As a matter of international law, the usual answer is that the state must repay. This follows from

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<sup>5</sup> Examples from this literature include Mancina (2004), Chander (2004), Paulus (2005), Gelpert (2005), Hanlon (2006), Jayachandran, Kremer, and Shafter (2006), Feibelman (2007), King (2007), Ludington and Gulati (2008).

the rule of government succession, under which a state's obligations survive a change in political leadership and even a change in the form of government. The literature on odious debt asks whether there should be an exception to this rule when lenders have reason to know that a despot will misuse borrowed funds.

The classic formulation of odious debt doctrine is usually traced to the negotiations between Spain and the U.S. after the 1898 Spanish American war and the subsequent writings of the Russian émigré scholar, Alexander Nahum Sack (Collet and Oosterlinck 2018). In Sack's rather narrow conception, produced in the wake of the soviet repudiation of the Tsarist borrowing, a state may repudiate debts if the following conditions are satisfied. The debt is (a) incurred by a regime that lacked popular consent (a "despotic" regime); (b) one from which no benefits accrued to the populace, (c) one where the creditors had reason to know of these facts (Buchheit, Gulati, and Thompson 2007). In the modern era, a resurgence of interest in the doctrine followed the overthrow of Saddam Hussein by the United States government. After toppling Saddam Hussein, some senior U.S. government officials questioned whether Iraq should be able to repudiate Saddam-era debts (Hinrichsen 2021). Although the then US administration ultimately backed off trying to make a formal legal claim that odious debts could be repudiated, the musings of senior administration officials prompted renewed interest in whether a state's debts should always survive a change in government, resulting in a string of articles by eminent scholars.<sup>6</sup>

Even at first glance, it is apparent that the doctrine of odious debt has limited ambition. Most notably, it applies only when lenders have reason to know that the loan will produce no benefit to the borrower state's population, as in a case where members of the borrower's government plan to abscond with the loan proceeds. As traditionally understood, it is further limited to cases in which the borrower state is governed by a despotic regime that does not rule by popular consent. The Haitian Independence Debt arguably fulfills the first criterion. But few would conceptualize a key characteristic of this debt as the second criterion, the despotic leader.<sup>7</sup> For this reason, it differs from the scenario central to the literature on odious debt, which involves self-dealing or corruption by an illegitimate or despotic ruler (i.e., one who lacks popular consent).

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<sup>6</sup> Among them are Stiglitz (2003), Rajan (2004), Jayachandran and Kremer (2006), Choi and Posner (2007), Ginsburg and Ulen (2007), Bolton and Skeel (2007).

<sup>7</sup> Although the Haitian leader at the time (Boyer) likely ruled in a form somewhere between a monarch and a dictator and does not seem to have caught popular approval for doing the deal with the French king, this is hardly the characteristic of the transaction that was most crucial in producing the odious debt. For a discussion of the debt, Boyer and the other leaders of the time, see Democracy in Danger (2021).

It is a puzzle that the doctrine of odious debt should require that the borrower be governed by a despotic regime. The doctrine purports to be a rule of customary international law and, as such, must represent the general and consistent practice of states.<sup>8</sup> But there is historical evidence undermining the claim that debt repudiation could be justified only when an illegitimate government contracted the loan (Ludington, Gulati, and Brophy 2010). Moreover, the theoretical basis for limiting repudiation to such cases turns out to be thin.

To the extent the doctrine has a coherent theoretical basis, it is that, when loan proceeds do not benefit the population of the borrower state, the obligation to repay represents a sort of double injury. It is desirable for the law to create incentives to prevent such loans from being made. A rule permitting repudiation in all cases would go too far, by removing any incentive to monitor the borrowing decisions of public officials, with the likely effect of driving up borrowing costs. On the other hand, a strict repayment rule would go too far in the other direction, absolving lenders even when they know politicians plan to misappropriate loan proceeds.<sup>9</sup> Whether loan proceeds are misappropriated or simply wasted—i.e., offering no benefit whatsoever to the population—the lender cannot seek repayment from the officials responsible for the misbegotten loan. These officials will in all likelihood be unable to pay, if they can even be located. The question becomes how to allocate responsibility between the remaining parties. The law often answers this question by assigning the risk of loss to the party better able to prevent or insure against it. So understood, the purpose of the doctrine of odious debt is to identify cases in which this party was the lender (Ben-Shahar and Gulati 2007).

Viewed against this theoretical backdrop, the requirement of despotic rule is a puzzle. Despotism is a type of political agency cost. The despot seeks personal gain at the expense of the population, without the constraints imposed by the need to maintain popular consent. And indeed, it may make sense for lenders to bear the risk of loss when they have reason to know that a despotic ruler will misappropriate or waste loan proceeds. That rule effectively makes despotism a proxy for situations where the populace cannot constrain the ruler's borrowing decisions. But even if we ignore the definitional problems raised by the term, "despotism" is

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<sup>8</sup> Despite the interest, there remains a debate over whether customary international law in fact recognizes the doctrine of odious debt. King (2007) surveys examples from international practice, which do not always or even often use the term "odious debt." Rules of customary international law are derived from the historical practice of nations. For a rule to exist, it must represent a general practice, which nations observe not by choice but out of a sense of obligation. We take no position in this debate over whether customary international law recognizes the doctrine. Our purpose is to explore whether the doctrine as traditionally formulated is too narrow in scope.

<sup>9</sup> On lenders' incentives in sovereign debt markets, see Block-Lieb and Weidemaier (2014).

only one source of self-interested or socially unproductive behavior by public officials. The doctrine of odious debt may be correct in treating despotism as *sufficient* for repudiation (assuming the other requirements are satisfied). But it does not explain why despotism should be *necessary*.

One explanation for why the doctrine took the foregoing route may be that focusing on despotic rulers yields a compelling narrative with clear good and bad guys: a corrupt leader such as Saddam Hussein uses borrowed funds to oppress the people, and then sticks the people with the bill. The fact that the good guys (revolutionaries) are being made to pay the not-so-good guys (foreign creditors who gave financial support to the despot) for the debts of the really bad guy (the despot) is clearly the morally wrong outcome. And law generally maps on to our strong moral intuitions. Not here though, which is one feature that makes odious debts so interesting. The legal status of odious debts, as a matter of international law, turns out to be uncertain. Indeed, no tribunal has ever invoked the doctrine to invalidate a loan (e.g., Gelpert 2005; Paulus 2005; contra King 2016). Given that, the compelling narrative can help justify why perhaps the law should evolve towards accepting such a doctrine by inclining listeners (some of whom may be judges) to accept the legitimacy of debt repudiation.

However, non-despotic regimes can and do incur debts that do not benefit the populace, reflecting all sorts of governance failures, such as politicians' short-term incentives to maintain power. We do not argue that the doctrine of odious debt should extend to all such cases, only that the doctrine offers no principled basis for categorically excluding them. Once the doctrine is expanded beyond loans to despotic regimes, its relevance to colonial debts becomes clear. After all, while under colonial rule, the population of a newly-independent state had little power to shape borrowing decisions.

## 2.2 Legal Doctrine and Historical Contingency

In the modern literature on odious debts, which followed the overthrow of Saddam Hussein, there is almost no discussion of colonial era debts. Instead, the focus is on other despotic leaders such as Sani Abacha, Jean-Claude Duvalier and Ferdinand Marcos (Jayachandran and Kremer 2002). Given the despotic nature of some (arguably, much) imperial rule, and the fact that imperial powers left former colonies with significant debt burdens, this gap in the literature is unusual.<sup>10</sup>

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<sup>10</sup> One place where we have found discussion of the Haitian Independence Debt under the rubric of odious debts is in the NGO literature (e.g., Toussaint and Perchellet 2010).

Certainly it is odd that debates over the contours of an “odious” debt doctrine overlook the Haitian Independence Debt.

Addressing the reasons for this oversight, the anthropologist Grégoire Mallard suggests two explanations (Weidemaier and Gulati 2021). First, historical contingency has shaped the birth and evolution of the odious debt literature. In its first incarnation, Alexander Sack sought to situate the Soviet repudiation of Tsarist debt within a legal framework that generally maintained the enforceability of public debt. The emphasis on despotic rule may have seemed an apt description of the Tsar and cabined odious debt doctrine to a relatively narrow set of cases. Challenging imperialism and colonial debts was not on Sack’s agenda (Ludington and Gulati 2008). In the second incarnation, after the Iraq invasion and overthrow of Saddam Hussein, the literature was spurred by the U.S. government’s desire to disavow the \$100 billion or so in debt that Saddam had saddled Iraq with. The U.S. government did not want to expand the scope of odious debt doctrine beyond cases of despotic rule; it was uncomfortable with debt repudiation in any context. And for many participants in the debates occurring in academic and policy circles, the era of colonial debts was, by then, in the distant past. The problem of despotic leaders—Hussein, Duvalier, Abacha, Mobutu, Marcos, and so on—was the topic of the time (Jayachandran and Kremer 2002).

A second reason for the limited scope of odious debt doctrine is that officials and academics in the former imperial powers have played an outsized role in shaping the terms of the debate. This was true even in the immediate wake of decolonization in the 1960s and 1970s. As former colonies broke free of imperial rule, they tried to shape international law to escape the burden of the debts and contracts they had incurred under colonial rule. These efforts led to fierce debates over the treatment of these obligations under international law. But reformers made little progress in shaping international law to accommodate the needs of the former colonies (e.g., Deforge and Lemoine 2021; Mallard 2021; Waibel 2021).

In the present moment, however, there are renewed calls for reparations to account for slavery and other depredations committed by in the United States and in former colonies (e.g., Bachelet 2020). Likewise, efforts to force former colonial powers to return looted artifacts have gained steam and produced some notable successes (Munshi 2021). For the most part, these efforts have been framed as moral rather than legal obligations (Ochab 2021). But it is worth reconsidering how international law accounts for the legacy of colonial rule. The story of the Haitian Independence Debt may illustrate that it is time for the doctrine of odious debts to be repurposed.

### 3 The Haitian Independence Debt

In this section, we first relate the story of the Haitian Independence Debt and then estimate the evolution of Haiti's external debt-to-GDP ratio over 1825–2020 and the implications for the economic evolution of Haiti. We begin with a detailed historical account, tracing the history from negotiations in the early-nineteenth century through Haiti's halting but ultimately successful efforts to pay it in full. A number of themes emerge, which combine to highlight the unique nature of the debt.

First, there is a rough parallel between Haiti's experience and that of other countries that experienced gunboat diplomacy. But Haiti was unique in that it was not a defeated country, and it experienced gunboat diplomacy in the context of the *imposition* of the indemnity, not the enforcement of an obligation.<sup>11</sup> Second, we distinguish the Haitian Independence Debt from debts linked to other independence movements, such as those in Latin America in the early nineteenth century. Put simply, it was uncommon, perhaps unprecedented, to pay for recognition of independence, especially under circumstances suggesting coercion. Third, even in France, there was significant disagreement at the time about Haiti's capacity to pay and about the morality and legality of the indemnity. And finally, although the indemnity was transformed into debt issued in Paris, the obligations were closely entwined given the close linkages between the French financial system and political elites.

#### 3.1 The Story of the Haitian Independence Debt

Gunboats and sovereign debts have a long common history. Their relationship is often viewed through the prism of reimbursement. For a long time, the literature has stressed that Britain refused to intervene to help bondholders get reimbursed (Lipson 1989; Platt 1968). Some authors, such as Borchard (2013), have argued that military interventions only occurred against weak states. Yet, gunboats have been used to force defaulting countries to pay their dues (Mitchener and Weidenmier 2010) and in some cases the threat to use them has been enough to affect prices of sovereign bonds on secondary markets (Mitchener and Weidenmier 2005). Sovereign defaults have also been used as an excuse for military intervention; sometimes leading to the colonization of the defaulting country. This was for

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<sup>11</sup> Gunboats, in the form of the US marines, do show up almost a century later to enforce portions of the debt Haiti had to incur to pay the debts to French institutions, which in turn were incurred to pay the French indemnity. (Hudson 2012).

example the case for both Morocco and Egypt (Feis 1930). The threat of force was also on occasion used to make sure that defeated countries would honor the war reparations they had agreed to pay and implicitly the bonds that were securing this payment (Oosterlinck, Ureche-Rangau, and Vaslin 2014).

But in the case of Haiti, payments were not required from a defeated country. From the French point of view, Haiti was still a colony in 1825. At the Vienna Congress, in 1815, France had insisted that Saint Domingue was still a French possession (Blancpain 2003). As a result, even though the Haitians had managed to oust the French in 1804, no nation was willing to recognize Haiti's independence. Following Napoleon's defeat at Waterloo, the French government was forced to postpone any military intervention to reconquer Haiti, and this was even though the dispossessed former French plantation owners were lobbying to this effect (Blancpain 2001, p. 48; Joachim 1971). There was however no consensus on the position to adopt towards Haiti (Brière 2008, p. 44). To make the situation more complex, the island was up until 1820 separated into two: with President Alexander Pétion ruling over the South and West and King Henri Christophe ruling the North. Best we know, it was Pétion who suggested the payment of an indemnity to France to be able to move out from under its thumb, referring to the sale of Louisiana to the United States as an example. King Henri Christophe, however, was opposed to paying the French any indemnity<sup>12</sup> (Beauvois 2009). For French negotiators the indemnity was a *sine qua non* of letting go of their former colony.

Negotiations between France and Haiti resumed shortly after the second Restoration of Louis XVIII.<sup>13</sup> In 1816, French negotiators attempted to convince Haitian rulers to accept that their country would become a sort of protectorate. This attempt failed as Haiti's leaders wanted the country to be recognized as independent (Blancpain 2001, p. 51). Negotiations took place almost in a continuous way (Beauvois 2009).

The island was subsequently reunited under the rule of President Jean-Pierre Boyer in 1820. The French negotiators used this fact to ask for an even larger

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<sup>12</sup> "What rights, what arguments can the ex-colonists then allege to justify their claim for an indemnity? Is it possible that they wish to be recompensed for the loss of our persons? It is conceivable that Haitians who have escaped torture and massacre at the hands of these men, Haitians who have conquered their own country by the force of their arms and at the cost of their blood, that these same free Haitians should now purchase their property and persons once again with money paid to their former oppressors?" Letter to Thomas Clarkson cited in Beauvois and Clarkson (1952, p. 176).

<sup>13</sup> Louis XVIII was the brother of Louis XVI and was forced into exile following the French Revolution. After the fall of Napoleon, he was reinstated as king in 1814. The short-lived return of Napoleon in 1815 forced him again to flee the country, only to be recognized again as king after Waterloo.

indemnity. Jean-Pierre Boyer suggested again in 1821 that an indemnity could be paid in exchange for recognition (Joachim 1971). Negotiators from Haiti wanted to compute the amounts on the basis of Franco-Haitian trade. On the French side, an amount of 100 million francs was suggested as early as 1814 (Beauvois 2009). In May 1824, President Boyer sent two envoys Rouanne and La Rose to negotiate an indemnity of 100 million francs in exchange of recognition of the country's independence (Macgregor 1847, 1, p. 1190).<sup>14</sup> Many authors have stressed the negative effects for Haiti of this diplomatic endeavor. Macgregor (1847, 1, p. 1190) presents this offer as a major diplomatic error from the Haitian side. Franklin (1828, p. 242) asks "is it not the most unaccountable occurrence in the annals of almost any country, that overtures should have been made to France, to recognize an independence already established and tacitly admitted"? The French refused this offer but came back soon with a counter proposition.

At the same time, independence movements were gaining strength in Latin America. In the framework of the Peninsular war, Napoleon gave the Spanish Throne to his brother Joseph in 1808. This started independence movements in the Spanish held part of Latin America. Following the fall of Napoleon in 1814, Ferdinand VII was restored as King of Spain. Despite his promises to accept a constitutional monarchy, he imposed an absolute rule, leaving little hope for autonomy in Latin America. As a result, the independence movement intensified. The fall of Ferdinand VII, and his restoration thanks to a French military intervention in 1823, limited Spain's ability to alter the course of events in Latin America. Newly independent countries began to float bonds in London and by 1825 most of these states had borrowed substantial amounts there (Marichal 1989, p. 14). The place of issue signalled the willingness of these countries to enter into a closer relationship with Britain but also the fact that continental powers were more reluctant to support them (Todd 2021, p. 197). Diplomatic recognition by the United Kingdom and the United States came extremely fast, in comparison to the Haitian case.

In September 1824, Charles X<sup>15</sup> succeeded Louis XVIII on the French throne. Soon after his coronation he began to deal with the Haitian case. A Royal Decree, signed by Charles X on 17 April 1825 recognized Haiti's independence, an independence that it had gained *de facto* 22 years earlier (Joachim 1971). Independence

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<sup>14</sup> According to sources in Beauvois (2009) Haiti never proposed more than 80 million. The difference in figures reflects the lack of sources and the contradictions observed in various narratives.

<sup>15</sup> Charles X was the brother of Louis XVI and Louis XVIII. He became king at the death of his brother in 1824. Ultra-royalist and devout catholic, his reign was marked by international interventions in Greece and Algeria. His reign ended in 1830 following his attempt to dissolve the chambers and the subsequent July revolution (26–29 July, 1830).

was however granted on the condition that the newly recognized country would pay an indemnity of 150 million francs to be paid in five installments as an indemnity for the former colonizers. Recognition of independence was thus conditional on Haiti's ability to adhere to the terms of the Royal Decree. The amount was arbitrarily decided, and was supposed to represent a tenth of the value of the properties before 1789 (Brière 2008, p. 125). It was computed without taking into account Haiti's capacity to pay. The responsibility to pay former slaveholders was also debated. The Haitian government pointed out that it was France in 1793–1974 which had suppressed slavery (Brière 2008, p. 124). According to the Haitian government, therefore, if any indemnity was to be paid, it had to come from French coffers not Haitian ones.

At approximately the same time, Brazil issued loans in London with “the specific purpose of smoothing the way to Portuguese recognition of Brazilian independence by liquidating debts and providing generous monetary compensation to the former motherland” (Marichal 1989, p. 30).<sup>16</sup> The transition in Brazil was peaceful and differed markedly from the gunboat diplomacy used by France. The Haitian case was thus exceptional, not only because it was not a common practice to pay for one's independence but also because the heavy-handed approach used by France contrasts with its otherwise smoother diplomatic approach, described by Todd (2021) as velvet imperialism.

The decree also provided for a series of commercial advantages for France, including favorable trade treatment. Independence was limited to the part that had formerly been a French colony, not the part that used to belong to Spain (Blancpain 2001, p. 56). Furthermore, the phrasing of this independence led to many questions: (Eugène 2003). The *Ordonnance* read: “we concede on these conditions, by the present ordinance, to the present inhabitants of the French part of Saint-Domingue the full and complete independence of their government.”<sup>17</sup> The government was thus recognized as independent. However, there was no mention of Haiti as a full sovereign, being entitled to be a part of the community of nations. The *Annual Register* (1826, p. 146) stressed that independence had been granted to the actual inhabitants of Haiti and not to their successors. It was also very critical of the process,<sup>18</sup> suggesting that Boyer should be viewed “as a French viceroy, rather than as the head of an independent nation.”

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<sup>16</sup> The authors thank an anonymous referee for pointing out this case.

<sup>17</sup> “Nous concédons à ces conditions, par la présente ordonnance, aux habitants actuels de la partie française de Saint-Domingue l'indépendance pleine et entière de leur gouvernement.”

<sup>18</sup> “The decree of the king of France, which is supposed to constitute his majesty's recognition of the independence of St. Domingo, has little resemblance, to what, in common language and common sense, would be called an acknowledgment of the “sovereignty” of that republic. (...). Such an ordinance is, in form, as well as substance, more like the assertion, than the surrender, of a

To convince the Haitian government to accept these terms, France literally relied on gunboat diplomacy. On July 3rd, 1825 the French navy arrived in Port-au-Prince. According to Blancpain (2003, p. 243), “the 14 vessels with 528 cannons in the harbor of Port-au-Prince (...) constituted a very convincing diplomatic argument”. Haiti agreed, under the shadow of the gunboats, to the terms offered by France on July 8th, 1825. Recognition of Haiti’s independence by other nations (Prussia, The Netherlands, the United-Kingdom for example) followed shortly after. One notable exception, given proximity, its own recent revolution, and the subsequent struggle for international recognition, was the United States (Blancpain 2001, p. 62).<sup>19</sup>

It did not take long for commentators to stress the negative aspects of this agreement. Macaulay (1835, p. 59), wrote: “Haiti has done itself a great disservice by imprudently committing itself to pay France the enormous sum of 150 million francs for the price of the recognition of its independence.” By contrast, for at least some of the dispossessed plantation owners though, the 150 million francs represented an indemnity equivalent to only a tenth of the value of their former properties (Esmangart 1833, p. 3). What we do know for sure is that the indemnity shaped the relationship between France and Haiti for the rest of the century (Joachim 1971).

As a technical matter, Haiti paid for the recognition of its independence, not for its independence itself. Explicit payment for recognition by other nations was rare even for the time. That said, episodes linking sovereign debts with independence exist. Waibel (2021) reports that a number of Spanish colonies had to assume certain Spanish debts as the implicit “price” of independence.<sup>20</sup> And, along these lines, after the overthrow of the Tsar, the Soviets used promises to reimburse the Tsarists bonds that they had repudiated as a bargaining device to obtain *de jure* recognition of their government in the 1920s (Oosterlinck 2016). These parallels have some merit but none really corresponds to the case of Haiti which is unique in the sense that Haitians were coerced to borrow to buy their independence.

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sovereignty. It states no treaty with Boyer, in public act, beyond the mere pleasure of Charles 10th expressed in a decree which his ministers have countersigned, but to which there is not annexed one line on behalf of any other contracting party, nor the name of a single Haytian minister”.

**19** US leaders such as Thomas Jefferson feared that showing support for a slave rebellion would lose them support from domestic slaveholders; it took till 1862 for the US to recognize Haiti (Gaffield 2015)

**20** More generally, the idea that the colonial powers imposed unjust treaties on their former colonial subjects as they were departing resonates with many in the former colonies. See Waibel (2021) (giving the examples of France’s exit from Algeria under the Evian Accords and the UK’s exit from Mauritius under the Lancaster House Accords as examples where quid pro quo for leaving was extracted).

To pay the indemnity, the Haitian government had no alternative than to borrow. To do so three envoys were sent to Paris. The need to issue the loan because of the indemnity is clearly stated in the loan's prospectus: "His Majesty Charles X having solemnly recognized the independence of Haiti, and the government of that country having granted the former colonists an indemnity of 150 million francs payable in 5 years, His Excellency the President has decided to open a loan of 30 million francs repayable in 25 years, to meet the first term of this indemnity".<sup>21</sup> The amount was well above what the Haitian government had in its coffers. According to Blancpain (2001, p. 58), the indemnity was the equivalent of 10 years of fiscal revenues. Beauvois (2009) estimates the average government revenues between 1818 and 1824 at 2,581,210 francs. With this estimate, the proportion would be lower but still represent more than 52 years of revenues. The prospectus provided an opportunity to reassure investors. According to the prospectus, Haiti had decided to issue a bond because its revenues could cover the interests and because this allowed avoiding creating new taxes. In France the majority still remembered the pre-revolutionary Saint Domingue, when the island was rich (Brière 2008, p. 45). There was thus a widespread belief that Haiti's prosperity could easily be restored (Todd 2021, p. 202).

Even though many in France believed Haiti could easily pay, this was not the case. Rumors that the former King Christophe had left a 250 million treasure proved unfounded. Ternaux (1825), an enthusiastic defender of the loan, claimed that Haiti's annual revenues were in the region of 37 million francs, a figure divorced from reality. As for the financial capacities of the country, these depended heavily on foreign trade.

As noted, the displaced French plantation owners thought that the amounts imposed on Haiti were reasonable (or, in some cases, unreasonably low), Esmangart (1833, p. 3)<sup>22</sup> but their self-interest is obvious. Other prominent voices, however, even in France, flagged the fact that the indemnity was exorbitant. Members of the parliament such as Alexandre Delaborde, Emmanuel de Las Cases and François-André Isambert denounced the amounts to be paid (Laurent 1842, p. 3). Taxes on coffee, the main export of Haiti, represented the main source of revenues of the government. And those coffee revenues served as a collateral for loans floated in France (Blancpain 2001, p. 15). The sharp decline in the price of coffee thus affected dramatically the government's resources (Beauvois 2009). Prices fell from 290 francs for 100 pounds in 1821, to 140 in 1825 and a meagre 85 francs in 1830 (Blancpain 2001, p. 16). In the middle of the 1830s prices experienced

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<sup>21</sup> Emprunt d'Haïti, 1825, 30 million francs, Remboursable en 25 ans, Rothschild Archive, Roubaix, box 132 AQ 73.

<sup>22</sup> Esmangart owned a plantation in des Cayes (Brière 2008, p. 73).

a short-lived upward movement but not substantial enough to alter the general dynamic: between 1820 and 1848, the price fell by 75% (Brière 2008, p. 191).<sup>23</sup> The decision to reduce tax duties on trades with France further reduced revenues. The end result of all this was that President Boyer proposed a new tax to try and stay current on debt payments within a decade (Blancpain 2001, p. 63).<sup>24</sup>

The morality of the indemnity, and thus the debt, was also questioned early on. Was it morally sound to ask former slaves to pay for their freedom? Laurent (1842, p. 2) was one of the most vocal opponents arguing that the settlers' "titles emanate of blood, carnage and plunder. Thefts of men on the coasts of Africa, held in slavery and slavery and working with sticks, in order to enrich their good masters". Macaulay (1835, p. 60) wondered if "[i]t was necessary that these men pay in money what they had already bought with their blood; it was necessary to levy contributions for the execution of a generally odious measure."<sup>25</sup> The indemnity was also in direct opposition to the Haitian constitution which had declared that "any property that has belonged to a French white person is unquestionably and by right confiscated in favour of the State."<sup>26</sup> That dictate in the Haitian constitution may have been why payments were not made directly by Haiti to the dispossessed French plantation owners.

The French government committed in April 1826, to act as intermediary and pay the indemnity. For the displaced former plantation owners this potentially meant that France had recognized their rights to an indemnity and that it was France which had taken over the burden of the indemnity (Joachim 1971, p. 366). Nonay (1828, pp. 32–35) for example had already argued that France should

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**23** The drop in the price of coffee was a consequence of the rapid expansion of coffee production in Brazil. Until the end of the eighteenth century Brazil only produce coffee for domestic consumption, but by 1820, Brazil accounted for 20% of world production and by the end of the century Brazil accounted for 80% of global coffee production.

**24** Although opinion was not uniform, many observers abroad also questioned the amount of the indemnity and Haiti's capacity to pay. An article in the Times of London (1828) noted that payment was both economically and politically infeasible for Haiti, as the debt obliged the country to pay for an independence it had already won: "It was quite preposterous to suppose that a state like Hayti could pay 6,000,0001 to foreigners within the stipulated time for any political object, far less for an object that did not interest the people at all. The Republic was as independent before the treaty as it has been since." Among other examples, one newspaper in the United States noted (repeating comments in the French press) that "to demand of Hayti four or five millions a year, till the period when the indemnity, and the loan should be both liquidated, would be like expecting more than eight hundred millions a year of France for 20 years" (Buffalo Republican 1829).

**25** "Il fallut que ces hommes payassent en argent ce qu'ils avaient déjà acheté de leur sang ; il fallut lever des contributions pour l'exécution d'une mesure généralement odieuse."

**26** "Toute propriété qui aura appartenu à un Blanc français est incontestablement et de droit confisquée au profit de l'Etat." Cited in Joachim (1971, p. 361).

guarantee the indemnity. To ensure that Haiti would pay, Nonay (1828, pp. 41–42) suggested that France would be allowed to occupy the port of Mole Saint Nicolas and the Samana peninsula up till the debt was reimbursed. In practice, the Caisse des Dépôts et Consignations was tasked with the payment. According to Joachim (1971, p. 370), many beneficiaries came from important aristocratic families, some of them being members of the *Chambre des Pairs* (the upper house) or the *Chambres des Députés* (the lower house). These legislators had considerable sway over the actions of the French government, but were also under the thumb of lenders who they had borrowed from to run their colonial estates.

A large number of pamphlets, all claiming to tell the real truth about the Haitian bonds and the indemnity tell us that the default led to heated debates.<sup>27</sup> Some of these pamphlets are anonymous, other supposedly written by actors with a personal life aiming at creating empathy. One of these authors, Laurent (1842), is presented as an invalid from the Napoleonic wars and a holder of Haitian bonds. Laurent (1842) suggests that the banker Jacques Lafitte had acted in a fraudulent way. Most importantly, the same author argues that the bond should have been labeled as a Franco-Haitian loan because it had been floated under the auspices of the French government who presented it as “a national loan for French people” (Laurent 1842, p. 1). The argument being that it was because of the proceeds the Haitian government owed on this indemnity, combined with France’s acknowledged responsibility to provide the dispossessed plantation owners with compensation for their losses, that this borrowing by Haiti had received market support. On the French political side, the notion that an indemnity had to be paid to the former plantation owners in Haiti was politically sensitive. Many drew a parallel with the indemnity paid to the aristocrats who had been deposed during the French revolution. The decision to indemnify the dispossessed aristocrats in a financial transaction called the *Milliard des Emigrés*<sup>28</sup> (the Emigrants’ Billion) plagued French politics for years, even if it eventually settled the claims made by the exiled aristocrats (Rietsch 2007). In Haiti, by contrast, the indemnity was regularly denounced as the source of many evils, such as the depreciation of the local currency or inflation (Joachim 1971, p. 361). Blancpain (2001, p. 62) considers that domestic opposition to the indemnity as one of the causes of the 1843 revolution, which then forced President Boyer into exile.

The legality of the Royal Decree was also questioned in France. Brière (2004), tells us that members of the two French Chambers, the *Chambre des Pairs* and the *Chambre des députés*, knew nothing about the negotiations and discovered in the

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<sup>27</sup> See Esmangart (1833), Laurent (1842), *La vérité* (\*1875).

<sup>28</sup> The amount of one billion, was often used as a reference to gauge the indemnity required from Haiti.

press that Haiti had been granted its independence. The phrasing of the Royal Decree led to intense debate in France. The legal text was an “Ordonnance”. It basically gave the order to first grant preferential trade agreements to French trades, then to require the payment of 150 million francs and then only pronounced Haiti’s independence. According to some commentators in France, the concessions were illegal because they were not the result of a negotiation between independent nations but forced upon a colony (Blancpain 2001, p. 56). Other commentators questioned whether the French king had the authority to unilaterally grant independence and thus cede part of the French territory? The questions were considered important enough at the time that the French authorities gave answers. Specifically, the government answered that the state of war with Haiti, allowed the King to take these measures (Brière 2006, p. 133). Later on, the government argued that since Saint Domingue was a colony, it was subject to a specific legislation. Lastly, the Prime Minister, Count Joseph de Villèle argued that the agreement had been signed for the safety of the state,<sup>29</sup> a strange argument to say the least, as pointed out by Brière (2006, p. 134). Brière (2008, p. 103) suggests that it was Boyer, the president of Haiti, who first suggested using a Royal Decree (Ordonnance) and not a Treaty. Brière (2008) conjectures that the idea might have originally come from the French negotiators (Esmangart and de Laujon). Boyer might have found the idea appealing because it allowed by-passing the French chambers (and thus the lobby of former plantations and owners) and also the Haitian senate.

The link between the political world and the French financial system was so strong that it seems that French bankers knew Haiti was going to float a loan even before the “Ordonnance” was signed (Joachim 1971, p. 374) Even though other markets were ready to lend to Haiti, the debt was issued in Paris, in order to please the French government.<sup>30</sup> This was part of a deliberate strategy which used the promotion of loans to friendly states to exercise a form of tutelage on them (Todd 2021, p. 179). This approach would later on, and in other cases, lead France to take the control of the public finances of countries in default such as Morocco (Guillen 1970; Oosterlinck 2018). The nominal amount was equal to 30 million francs, well below the value of the total indemnity, but enough to pay its first installment. Issuing more would have been difficult from a budgetary point of view but would also have reduced the chances of the Haitian government renegotiating the amount of the indemnity (Blancpain 2001, p. 65). The prospectus issued by the

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<sup>29</sup> “Sureté de l’état”.

<sup>30</sup> Joseph de Villèle, the President of the Council of Ministers and the Minister of Finance firmly opposed a loan issue in England (Brière 2008, p. 162). On Villèle, see [http://www.senat.fr/pair-de-france/villele\\_jean\\_baptiste\\_guillaume\\_marie\\_anne\\_seraphin\\_josephpf0454.html](http://www.senat.fr/pair-de-france/villele_jean_baptiste_guillaume_marie_anne_seraphin_josephpf0454.html).

Haitian government on October 10, 1825 details the conditions of the issue:<sup>31</sup> To reach the required 30 million francs, 30,000 bonds with a face value of 1000 francs would be issued. The bond carried a 6% annual coupon, payable in two yearly installments, and was to be repaid in 25 years (with 1/25th of the bonds randomly drawn and reimbursed every year from 1827 to 1851).

From the onset, the prospectus envisioned the creation of syndicates. The syndicates had to enter into a firm commitment: bonds they were unable to place with the public would remain in their books. To be considered as bidder, the syndicates had to deposit three million francs as guarantee. Bidders had to follow a template still in existence in the Rothschild archives in Roubaix.<sup>32</sup> They had to give a sealed bid to Guillaume Louis Ternaux, Ternaux l'Ainé was in charge of supervising the whole bidding process.<sup>33</sup> In his pamphlet he presented the Haitian loan as safe as the loans issued by South American countries which had just gained independence for two reasons: first, Haiti had been independent for longer and could thus show its stability, second as an island it was not going to be engaged in territorial wars (Ternaux 1825, 41).

Despite the positive statements made by Ternaux, the bidding did not go smoothly. The winning bid which first had to be announced on the 26th of October was postponed to the third of November. Gille (1965) mentions the existence of two syndicates: one including André & Cottier,<sup>34</sup> Jacques Lefebvre, Mallet frères & Cie and Alexis Pillet-Will, the other one composed of Benjamin Délessert<sup>35</sup> and Casimir Périer<sup>36</sup> The *Journal des Débats Politiques et Littéraires*, reporting on the bidding procedure mentions the same actors.<sup>37</sup> The Haitian government was hoping to get bids at least equal to 90% of par. Despite the publicity and the supposedly-safe

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**31** Emprunt d'Haïti, 1825, 30 million francs, Remboursable en 25 ans, Rothschild Archive, Roubaix, box 132 AQ 73. The prospectus was also published in the *Journal des Débats Politiques et Littéraires*, 13 October 1825.

**32** "Modèle de soumission", Rothschild Archive, Roubaix, box 132 AQ 73.

**33** Ternaux, an industrialist and banker, supported the Greek independence movement (an element which explains that the profits of the sales of his pamphlet were destined to support this movement) and opposed slavery. In view of this, it may seem strange that he would support a loan to pay an indemnity to former slave-owners. His involvement reflects his belief that the loan would bring peace, allow Haiti to reduce the size of its army and, with the savings, engage in productive investments (see Barau 2001; Ternaux 1825).

**34** Dominique André and François Cottier. On these bankers, see for example Grand (1991).

**35** Ternaux (1825, p. II) suggests Delessert got involved because of the support given by the Duke de La Rochefoucaud Liancourt to the loan. Both had been active together in the launching of savings banks, with the help at the time of Jacques Laffitte (see de Coninck 2000).

**36** Gille (1965, p. 151).

**37** *Journal des Débats Politiques et Littéraires*, 4 November 1825.

character of the loan, both syndicates offered 76% of par, leading to suspicions of collusion.

Following the procedure described in the prospectus, in case of identical bids, the bidders could join forces. They proposed to do so to the Haitian government, which eventually refused their offer because it was too low.<sup>38</sup> Part of the French press criticized the whole process. *Le Constitutionnel* blamed the opaque way in which the bidding had occurred<sup>39</sup> Adolphe Thiers considered these accusations as unfair, but being close to the liberal banker Jacques Laffitte and to Talleyrand (Todd 2021, p. 190) his account should be taken with a grain of salt. According to Thiers (Marquant 1959, p. 272), the first syndicate was composed of Jacques Laffitte,<sup>40</sup> the receveurs généraux<sup>41</sup> and Samuel Mayer Rothschild; the second one was under the lead of Benjamin Deléssert (no mention is made of the other syndicate). To guarantee the success of the loan, Ternaux would have asked the syndicate headed by Laffitte to firmly commit to take the loan 25 centimes above the highest bid, should this bid be viewed as too low for the Haitian government. Once the Delessert syndicate heard of this agreement it refused to bid. A few days after his account of the bidding process, the *Journal des Débats Politiques et Littéraires* also mentioned the 25 centimes proposal, and even published a copy of it.<sup>42</sup>

According to Brière (2008, p. 165), negotiations between Laffitte and the representatives from Haiti took time because the parties could not converge on a price. The syndicate headed by Jacques Laffitte eventually got the deal at 80% of par.<sup>43</sup> The final price was far from the hopes of the Haitian government. Yet, it was not disastrous either. *Le Constitutionnel* considered the conditions were advantageous for Haiti.<sup>44</sup> The *Journal des Débats Politiques et Littéraires*<sup>45</sup> stressed that Mexican and Colombian bonds with a similar coupon were not traded above 77% of par. According to Gille (1965, p. 152) a direct intervention of Joseph de Villèle, the President of the Council of Minister, led to this outcome. Thiers suggests that this had been Villèle's plan well before the first bids were made.<sup>46</sup> The difficulties

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38 *Journal des Débats Politiques et Littéraires*, 4 November 1825.

39 *Le Constitutionnel*, 7 November 1825. *Le Constitutionnel* was a liberal newspaper.

40 According to Brière (2008), this syndicate refused to enter the first bid because it was a sealed bid and not an open outcry.

41 A groupement of tax officials under the supervision of the Ministry of Finance.

42 *Journal des Débats Politiques et Littéraires*, 6 November 1825.

43 The *Journal des Débats Politiques et Littéraires*, 6 November 1825 lists Jacques Laffitte, the receveurs généraux, Rothschild frères, J. Hagerman, Blanc-Colin & Cie, Ardoin Hubbard, César de la Panouze and Paravey & Cie.

44 *Le Constitutionnel*, 11 November 1825.

45 *Journal des Débats Politiques et Littéraires*, 4 November 1825.

46 According to Thiers, he lobbied to get the Rothschilds, whom he disliked, excluded from the deal.

experienced in floating the loan confirm the opinion voiced by Thiers about Ternaux. According to him, Ternaux was a good manufacturer but a poor banker, who by asking for sealed bids for a relatively small loan had jeopardized the loan issue by attracting untrustworthy bidders.<sup>47</sup> Thiers, probably to defend Lafitte, blamed Ternaux. Part of the press was much more critical regarding the syndicate, suggesting there had been foul play to ensure that Lafitte would get the deal.<sup>48</sup> Confusion about the whole bidding process remained, Esmangart (1833, p. 8) mentions the existence of three syndicates in the first place, the one led by Lafitte being presented as the fourth one.

The parties involved in the loan issue deserve being analyzed more in detail. Jacques Lafitte was a prominent banker, who had been governor of the Banque de France from 1814 to 1820.<sup>49</sup> In 1825, Lafitte had already been elected as member of parliament several times. He was thus a well-established and well-connected banker. Paravey & Cie was another important actor. It had been created in April 1818 by Emmerich Joseph Duke of Dalberg and Pierre Paravey (Faber 1970). Four years later, Charles-Maurice de Talleyrand-Périgord entered in the capital of the bank which ended up being owned for 40% by Dalberg, for 40% by Paravey, the remaining 20% representing Talleyrand's share. It was thanks to the support of these two men that Pierre Paravey was introduced to Rothschild and Lafitte. It is also their influence which was instrumental in getting the bank become a shareholder of the Banque de France (Faber 1970). Charles-Maurice de Talleyrand-Périgord and Emmerich Joseph Duke of Dalberg were indeed extremely influential at the time. Talleyrand had occupied important positions almost continuously.<sup>50</sup> Minister of Foreign Affairs during the Directoire, the Consulate, the First Empire, and under Louis XVIII, shortly head of government in 1814 and 1815, he was in 1825 Pair de France (member of the Upper House). Dalberg shared with Talleyrand the ability to survive regime changes. Born in Germany,<sup>51</sup> he became a Duke in 1810, during the First Empire. As Talleyrand, he changed sides in 1814, joining the side of Louis XVIII, he was made Pair de France by the latter in 1815.

Investors at the time monitored closely who was involved in different investments. There is therefore little doubt that Parisian investors would have known not only about Lafitte's involvement but also about Paravey and hence indirectly Talleyrand and Dalberg. Having high-profile investors involved in the Haitian deal must have been reassuring for investors. After all, Talleyrand had served as

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<sup>47</sup> Letter from Thiers to Baron Cotta dated 14 October 1825, in Marquant (1959, p. 266).

<sup>48</sup> *Journal des Débats Politiques et Littéraires*, 6 November 1825.

<sup>49</sup> [https://www2.assemblee-nationale.fr/sycomore/fiche/\(num\\_dept\)/10199](https://www2.assemblee-nationale.fr/sycomore/fiche/(num_dept)/10199).

<sup>50</sup> His full biography lists many other important positions, which we do not detail here: [http://www.senat.fr/pair-de-france/talleyrand\\_perigord\\_charles\\_mauricepf0031.html](http://www.senat.fr/pair-de-france/talleyrand_perigord_charles_mauricepf0031.html).

<sup>51</sup> [http://www.senat.fr/pair-de-france/dalberg\\_emmerich\\_joseph\\_wolgarg\\_herbertpf0191.html](http://www.senat.fr/pair-de-france/dalberg_emmerich_joseph_wolgarg_herbertpf0191.html).

Minister of Foreign Affairs for more than 10 years, and was extremely well-informed. As for Dalberg, according to Todd (2021, p. 201), his investment decision rested on insider information. The underwriter was prestigious, an important element at the time as shown by Flandreau and Flores (2009). It was therefore reasonable for investors to view Haitian bonds as relatively safe. The timing of the issue proved however disastrous.

Brière (2008, p. 166) suggests that the syndicate managed to get a 20 million loan from the Caisse des Dépôts et Consignations and therefore had only to pay four million directly. It is unclear when this loan took place. It may have been extended following the difficulties experienced by the syndicate to find enough investors interested in the bond. Faber (1970) mentions that the syndicate was hoping to float the bond at 83.5% of par. Shortly after its issue the bond traded at 84% of par on the Paris stock exchange. According to Esmangart (1833, pp. 8–9) the syndicate managed to sell for an amount of six million francs at this price.<sup>52</sup> Shortly afterwards however, the whole undertaking took a dramatic turn. The bond became indeed the collateral victim of the crash experienced by Latin American securities on the London Stock Exchange. Prices in Paris followed those in London (Gontard 2000). Less than a month after its issue the bond was trading at 80% of par: unless they were ready to sell at a loss, the members of the syndicate had to keep the Haitian bonds on their books (Faber 1970). This turn of event jeopardized the survival of the Paravey bank, which had been involved in other investments who proved to be illiquid. Paravey had no other option than to seek the help of Talleyrand and Dalberg to keep the bank afloat. Gradually Talleyrand became more and more involved in the bank. But to no avail, Paravey committed suicide in April 1828 and the bank had to be reorganized (Faber 1970). Dalberg and Talleyrand were forced to take over all the Haitian bonds that were still in possession of the bank.<sup>53</sup> Eventually, they paid a price close to 65% of par for bonds they managed to sell for a price ranging between 62.2 and 62.5% of par in October 1828 (Faber 1970). Talleyrand and Dalberg had to provide additional funds to the syndicate to cover the sums due by the Paravey bank to the syndicate.<sup>54</sup> The impact of the Haitian loans on Talleyrand's wealth was such that he had to mortgage his collection of paintings in 1829 (de Waresquiel 2006).

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<sup>52</sup> As is generally the case, for nineteenth century loans, it is difficult to know who actually bought the bonds. Brière (2008, p. 194) suggests there were between 2000 and 3000 individuals who I invested in the Haitian loan.

<sup>53</sup> The whole agreement is available in the Rothschild archive in Roubaix: Entre les soussignés, Rothschild Archive, Roubaix, box 132 AQ 73.

<sup>54</sup> A copy of this agreement is also available in the Rothschild archive in Roubaix: Emprunt d'Haiti, Rothschild Archive, Roubaix, box 132 AQ 73.

Thanks to the proceeds of the loan, Haiti managed to pay the first installment of the indemnity, only to default on the second installment the following year. Haiti managed to service the loan in 1826 and 1827 only because it received the help of the French Treasury (Blancpain 2001, p. 67). In 1827, the Haitian government asked Laffitte to negotiate a moratorium (Esmangart 1833, p. 6). Laffitte agreed to advance the funds for 1828, but conditioned his involvement on a guarantee from the French Treasury that Villèle accepted (Brière 2008). The question the scope of the guarantee was subsequently became an issue. According to Nonay (1828, pp. 32–35) France had guaranteed the indemnity but not the loan which had served to help make payments on it. Esmangart (1833, pp. 11–15) concurred. As the latter represented the former colonizers, he had an interest in putting of the burden of the loan on Haiti alone so as to free more French resources to pay for the remainder of the indemnity. Jacques Laffitte by contrast claimed that France had indeed guaranteed the loan (Esmangart 1833, p. 10). Esmangart (1833, p. 11) claims that it was established in 1828 that the loan and the indemnity were separate, France having no responsibility regarding the first.<sup>55</sup>

If yield to maturities are taken as reference, it seems clear that market participants did not consider the bonds to bear a full guarantee from the French state. The yields on French bonds experienced a dramatic fall following Waterloo because of an in-depth reorganization of French public finances and the support of foreign bankers and of the Duke of Wellington (Oosterlinck, Ureche-Rangau, and Vaslin 2014).<sup>56</sup> As a result in 1825 the yield to maturity on the French rentes was close to 4.5%. By contrast, the current yield of the Haitian bonds at issue was equal to 7.5%. It would be hard to attribute this difference just to differences in liquidity. The yields on French bonds experienced a further decline opening the possibility to convert the 5% bonds into lower coupon ones regularly (Oosterlinck, Ureche, and Vaslin 2019). By contrast, the prices of Haitian bonds followed a steep downward trend, especially after Haiti stopped servicing the loan in 1829 (Brière 2008). Negotiations stalled, a moratorium at first agreed upon was denounced by Haiti. The French revolution of 1830 then led to a new round of negotiations.

The inability to pay prompted President Boyer to ask for a reduction of the indemnity and to renegotiate the preferential treatment given to French trade. Once the default became known, many critics of the original indemnity suggested

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<sup>55</sup> Even in the absence of a formal guarantee, it was common for market participants to consider loans issued by colonies to enjoy an implied guarantee from the colonizing power (Accominotti, Flandreau, and Rezzik 2011; Degive and Oosterlinck 2020). By extension, investors may have expected a similar treatment for the Haitian loan.

<sup>56</sup> Thiers and Laffitte played an important role in this respect (see Todd 2021, p. 190).

it could have been predicted. According to Nanoy (1828),<sup>57</sup> “by selling to the blacks something they owned, M. de Villèle could not ignore that they promised him ... a price which they would not pay.” The default, for this critic, thus represented an unwillingness to pay, not necessarily an inability to pay. Prices on the stock market resumed their downward spiral, with bonds trading at 26% of par in June 1833 (Brière 2008, p. 194).

The indemnity was renegotiated on 12 February 1838, with the remainder of the indemnity reduced from 120 to 60 million francs. At the same time, Louis-Philippe I formally recognized Haiti as a free, sovereign and independent state (Blancpain 2001, p. 70). One might say then that Haiti paid a price to France for its independence twice. On this second occasion, Haiti could have, in theory, simply repudiated the debt that was viewed as unjust domestically. It did not; instead, it bargained for a more robust recognition of its independence from France in exchange for agreeing to a new reduced (albeit, still enormous) debt.

The French government passed a law on 18 May 1840 reducing the amounts to be paid to the former colonizers. This generated an outcry from the latter, many of whose view was the responsibility to compensate them was that of France when it recognized Haiti’s independence (Joachim 1971, pp. 366–367). Haiti managed to pay the required amounts up until 1843, and then had to impose an another moratorium. According to Brière (2008, p. 9) Haitians lived in perpetual fear that France would invade their country during the 40 years that followed the proclamation of their independence. Payments resumed in 1849 but were stopped between 1867 and 1869 because of the political situation in Haiti following Sylvain Salnave’s coup.<sup>58</sup> The new government then started to pay again.

### 3.2 Haiti’s External Debt, 1825–2020

There are no readily available long series for Haiti’s GDP and external debt levels. One of the contributions of this article is to use different sources assemble such series for the period 1825–2020. For the period 1825–1925, we use data on debt and GDP estimates from Henochsberg (2016). For the period 1950–1970, we use declassified documents from the IMF and World Bank archives (IMF 1949, 1950, 1962, 1968, 1970, and World Bank 1954, 1956, 1957, 1961, 1965, 1972, 1974). For the

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57 “Mais en vendant aux noirs un bien qu’ils possédaient, M. de Villèle ne pouvait ignorer qu’ils lui en promettaient un prix qu’ils n’acquitteraient point.”

58 A Haitian general, Sylvain Salnave took power in May 1867 and proclaimed himself president for life in June the same year. His rule was ended following a revolution and he was executed in January 1870.

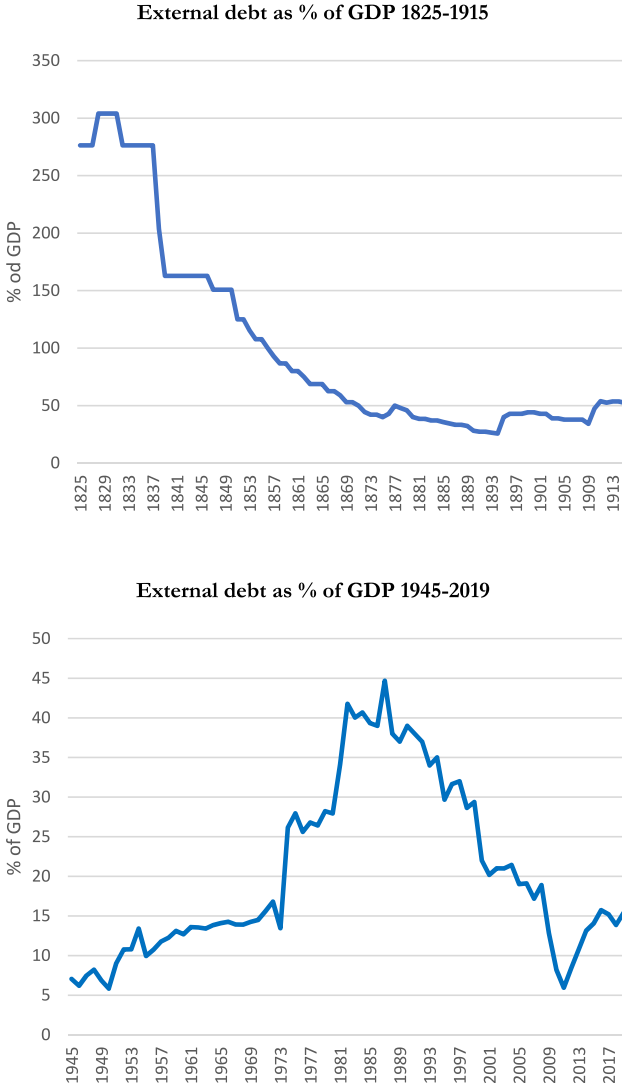
period 1970–2020, we use the World Bank’s World Development Indicators and the World Bank international debt statistics.

As these sources report data in different currencies and different units (for instance, Henochsberg 2016, reports data in gold francs, and the various IMF and World Bank document report data in both Haiti’s local currency and in current US dollars), we convert all data into 2020 US dollars. This exercise requires some assumptions. We first convert the gold franc into US dollars at a rate of 5.5 (the gold franc contained 290 mg of fine gold and in 1825 one US dollar was equivalent to 1.6 g of fine gold) and then reflate all values using data on US inflation over 1825–2020 (\$1 in 1825 corresponds to approximately \$28 in 2020).

Using these adjustments, we find that Haiti’s original debt of 150 million gold francs is worth 760 million in current US dollars. At the same time, Haiti’s GDP in 1825, estimated by Henochsberg (2016) at 54 million of gold francs, corresponds to 275 million current US dollars. These figures yield an initial debt-to-GDP ratio of nearly 280% (top panel of Figure 1). As mentioned in the previous section, 60 million gold francs of debt (corresponding to approximately 300 million of today’s dollars) were canceled in 1838, bringing Haiti’s debt to 160% of GDP. Over 1850–1875, the real value of Haiti’s external debt decreased from \$440 million to about \$220 million and GDP grew from \$350 million to \$550 million (all figures are 2020 USD), bringing external debt to 40% of GDP. While GDP kept growing over 1875–1915 (average annual real GDP growth was close to 2%), debt grew at a faster pace, bringing the debt-to-GDP ratio back to 52%.

The beginning of the twentieth century was characterized by an increased interest of U.S. banks in Haiti. Among others, Hudson (2012, 2018) has documented the involvement of U.S. banks in controlling Haiti’s financial affairs. In 1910, the National City Bank of New York started acquiring the stock of the National Bank of Haiti. In successive years, National City Bank gained full control of the National Bank of Haiti and acquired a substantial amount of government guaranteed debt issued by a railways company (IMF 1950, p. 11). The railway’s debt led to a deterioration of the government’s fiscal position and to a situation in which debt service absorbed more than 80% of government revenues.

American banks’ concerns about their loans to Haiti also led to an American occupation which started in 1915 and lasted until 1934. During the occupation, a primary objective of government policy was to fully repay foreign creditors. In the early 1920s, the government floated bonds in the US market for \$23.7 million and used the proceedings to repay the French loan and National City Bank (IMF 1949). Haiti subsequently ran large primary surpluses, with debt service absorbing more than 30% of government revenues over 1925–1936. After a sudden drop in Haiti’s export prices in 1937, the US government allowed Haiti to reduce amortization payments, but over 1936–1946 debt service still absorbed more than 15% of



**Figure 1:** External debt over GDP.

Source: Own elaborations based on data from Henochsberg (2016), World Bank’s World Development Indicators, IMF (1949, 1950, 1962, 1968, 1970) and World Bank (1954, 1956, 1957, 1961, 1965, 1972, 1974).

government revenues. These large primary surpluses, together with an internal loan denominated in US dollars floated in 1947, allowed Haiti to reduce its external debt, which went from more than 50% of GDP in 1915 to less than 6% of GDP in 1950 (bottom panel of Figure 1). This policy of debt service primacy,

however, also had a negative impact on Haiti's economic development. According to the IMF staff in 1949:

Haitian fiscal practice has generally involved a balanced budget and the subordination of domestic expenditure to the necessity of servicing the external loans. ... Fiscal policy in Haiti in general has not been development promoting, because it has been primarily motivated by considerations of immediate revenue yields and has generally failed to give active encouragement to economic development. The business community complains of a lack of sympathy on the part of the fiscal authorities, sudden arbitrary new taxes, and the like. Instances have been reported to show that promising new industries have been thwarted to the point of being forced out of business by the application of new taxes that made the venture unprofitable (IMF 1949, pp. 3–4)

Capital works performed by the Government. ... are generally not large. The accumulated liquid savings of Haiti are held in foreign exchange or are deposited abroad. This means, in effect, that Haiti is lending money abroad, despite its need for capital for development at home (IMF 1949, p. 7)

Starting from low levels in the early 1950s, Haiti's debt-to-GDP ratio increased by 10 percentage points, reaching 15%, during the presidency of François Duvalier (1957–1971). It then grew rapidly over 1971–1986 during the regime of Jean-Claude Duvalier. The debt-to-GDP ratio peaked at 45% in 1987 and then decreased at a rapid pace over the next 20 years (partly thanks to the Heavily Indebted Poor Countries Initiative<sup>59</sup>), bottoming at 5% in 2011, when debt started increasing again reaching 15% of GDP in 2019.

### 3.3 The Economic Cost of the 1825 Debt

What is the economic cost of the debt that was imposed on Haiti in 1825? To address this question, we will start by assuming that instead of paying France Haiti had created a sovereign wealth fund and endowed it with the amount requested by France. Given that 40% (60 million) of the original debt was canceled in 1838, we assume an original debt of 90 million gold francs and assess the implications of different assumptions on the current value of 90 million 1825 gold francs.

As a starting point, we compute the value of Haiti's 1825 debt in today's money assuming a real return of 0%. As discussed above, in 1825 90 million gold

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<sup>59</sup> For details on the Heavily Indebted Poor Country (HIPC) initiative aimed at helping some of the poorest nations in the world get out of debt traps see <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/16/11/Debt-Relief-Under-the-Heavily-Indebted-Poor-Countries-Initiative>.

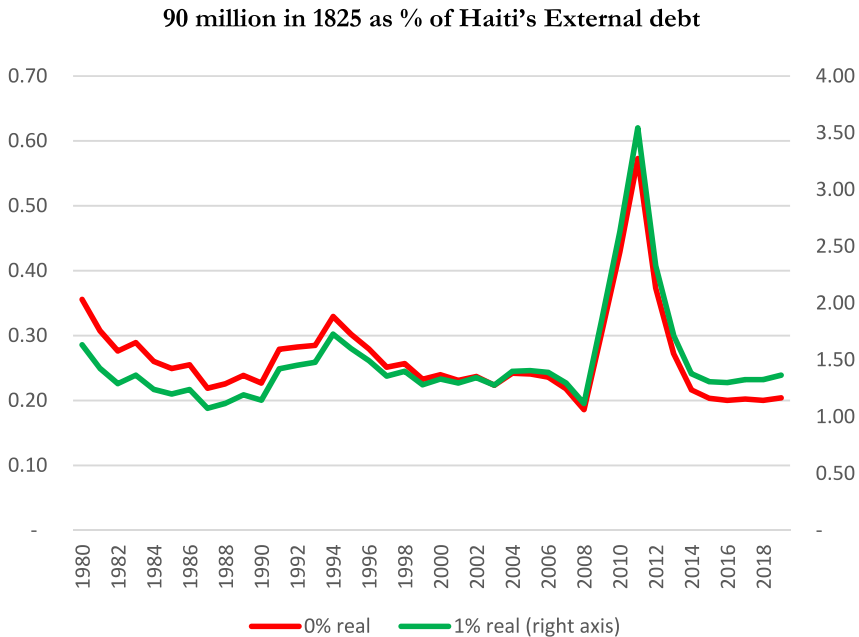
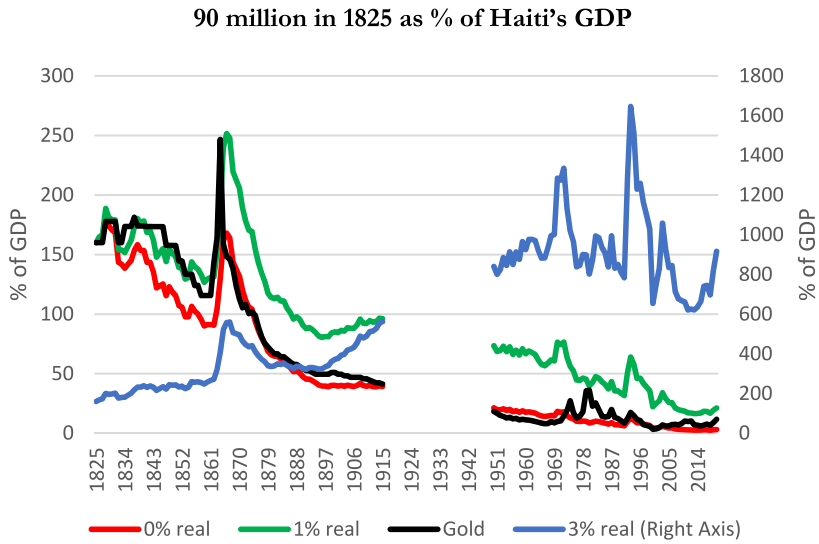
francs corresponded to \$16.3 million, applying the US inflation rate to this figure yields a value in 2020 dollar of approximately \$450 million, or 3% of Haiti's GDP in 2020 (the red line in the top panel of Figure 2). Assuming a zero real return is, however, very conservative. As a minimum, Haiti could have used the funds it paid to France to buy gold reserves. If it had done so, these gold reserves would now be worth \$1.6 billion, or 12% of Haiti's GDP (the black line in the top panel of Figure 2). If, instead, we assume that Haiti had been able to invest the funds it paid to France in an asset with a real yield of 1%, these funds would now be worth \$2.9 billion, which is equivalent to 22% of Haiti's GDP (the green line of the top panel of Figure 2). Had Haiti, instead, been able to obtain a 3% real return (3% real has been assumed to be a safe real rate for most of the twentieth century), the 90 million francs paid to France would now be worth \$125 billion- or 9-times Haiti's GDP (the blue line in the top panel of Figure 2). Finally, one could simply assume a real rate of return equal to Haiti's real GDP growth over 1825–2020 which was about 2.1%. In this case, the original debt would now be worth 160% of GDP or \$22 billion in 2020 US dollars.<sup>60</sup> It is worth noting that there is substantial uncertainty around these figures. For instance, Piketty (2020) uses a methodology similar to the constant share of GDP described above and slightly different assumptions and finds that France should repay Haiti €30 billion (\$33 billion). What it is clear, is that these amounts are very large.

The bottom panel of Figure 2 compares the simulations with 0 and 1% real returns with the stock of outstanding external debt. It shows that under the first assumption the 1825 debt corresponds to 20% of today's outstanding debt stock and under the second assumption it corresponds to 140% of today's debt.

There are two issues with the counterfactual calculations described above. First, they assume that for nearly 200 years all the governments of Haiti had wisely invested the 90 million francs that the government paid to France. However, if a country has a large proportion of its GDP (not to mention a multiple of its GDP) stashed away in a sovereign wealth fund, the temptation to spend these funds is large. And even if the law prevents withdrawing the funds from the sovereign wealth fund, the fund could be used as collateral for new borrowing. Given the kleptocratic nature of some of Haiti's rulers (think about the Duvaliers), it is hard to think that the sovereign wealth fund equivalent that we describe above would have resisted for 190 years. In this sense, the above discussion overstates the costs of the French debt.

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<sup>60</sup> A 4% real return would yield a current value of nearly \$800 billion, which corresponds to 5900% of Haiti's GDP.



**Figure 2:** If Haiti had invested 90 million gold francs in 1825.  
 Source: Own elaborations based on data from Henochsberg (2016), World Bank's World Development Indicators, IMF (1949, 1950, 1962, 1968, 1970) and World Bank (1954, 1956, 1957, 1961, 1965, 1972, 1974).

It is, however, possible, if not likely, that the debt accumulated at independence was part of the reasons for the institutional and policy failures that make Haiti one of the poorest country in the Western Hemisphere. It is thus possible that the kleptocratic regimes that stunted Haiti's development are a consequence of the independence debt.<sup>61</sup> If this is the case, the calculations reported above would understate the real cost of the 1825 debt. Thus, the second problem with the counterfactual exercise described above is that it assumes that the high stock of external debt at independence had no effect on GDP growth. However, as also recognized by IMF staff in 1949, the focus on "immediate revenue yields" presumably linked to the need of servicing external debt likely had negative implications for Haiti's economic development.

The economic literature on the effects of debt on growth assumes that the relationship between these two variables can be described by an inverted U. At first, debt promotes growth because it allows to finance investment and to reduce tax distortions. However, higher levels of debt crowd out investment and can lead to policy failures (Fatás et al. 2020). Focusing on external debt, Patillo, Poirson and Ricci (2011) suggest that debt starts having a negative effect on growth when it reaches 35–40% of GDP and that high levels of debt reduce real per capita annual GDP growth by about 1–2%.<sup>62</sup>

While there is a quasi-consensus on the fact that there is a threshold above which debt starts having a negative effect on growth, finding the point where debt starts reducing growth is challenging because the threshold is likely to be country and situation-specific and causality is hard to assess.<sup>63</sup> However, uncertainty on the point where debt becomes bad for growth should not be an issue for estimating the negative growth effects of Haiti's 1825 debt. As mentioned, the standard assumption is that moderate levels of debt are good for growth because they allow to finance investment or some type of useful public expenditure (or to smooth

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**61** To say nothing of the continued interference and support for various dictators and other kleptocrats by global powers such as France, Germany and the US in Haitian internal affairs over the years. See Alexander (2011).

**62** Note that all available estimates are based on recent (post 1960 data and it is not obvious whether they also apply to the nineteenth century. It is however worth noting that governments and tax bases were smaller then and hence debt was more difficult to service, it is thus plausible that the effect of a given level of debt on economic growth was larger in the past than what it is now. Reinhart and Rogoff (2010, p. 11) find that high debt is associated with low growth also when they look at the relationship between debt and growth over a 200-year period: "introducing the longer time series yields remarkably similar conclusions. Over the past two centuries, debt in excess of 90% has typically been associated with mean growth of 1.7% versus 3.7% when debt is low (under 30% of GDP)."

**63** For a critical evaluation of the debt and growth literature see Panizza and Presbitero (2013) and Eberhardt and Presbitero (2015).

taxation and thus limit distortions). However, Haiti's 1825 debt did not buy anything useful. Hence, it must have been bad (or at least not good) from the beginning, making the discussion of the threshold at which debt becomes bad for growth moot. We can thus assume that, from the beginning, Haiti was in the part of the curve where debt is bad for growth, and use the estimates of the literature to assess the growth effects of the 1825 debt.<sup>64</sup>

In 2018, Haiti's income per capita was approximately \$1400 (it was \$1200 in 2020, we use 2018 figures to abstract from the growth collapse associated with the Covid pandemic) and Henochsberg's (2016) estimations suggest that in 1844 (the year in which Dominican Republic gained independence from Haiti), Haiti's income per capita was around \$500 (in 2020 US dollars). This yields a yearly growth rate in income per capita of 0.6%. Let us now take the lower bound of Patillo, Poirson and Ricci's (2011) estimation (a 1% effect on the growth of GDP per capita) and, as before, assume that 1825 income per capita was \$500. If we add 1% to the actual 0.6% growth rate, we obtain a counterfactual 2018 GDP per capita of \$8100. Note that this level of income would put Haiti's almost at par with the Dominican Republic which in 2018 had an income per capita of \$8300.<sup>65</sup>

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**64** A possible objection to this argument is that the debt did buy something: the official recognition of Haiti's independence. As pointed out by one of our referees, Spain did not immediately recognize the independence of some of its American colonies. For instance, Spain tried to reconquer Mexico in 1829 and did not establish diplomatic relations with Mexico until 1836 (15 years after independence). In the case of Peru (which also declared independence in 1821), Spain did not recognize the independence of Peru until 1879 and in 1864 it occupied the Peruvian Chinch Islands. It is, however, worth noting that Haiti was always suspicious of France's commitment to its independence and according to Briere (2008, p. 10) the threat of a French invasion, forced Haiti to keep an oversized army.

**65** In fact, if we assume that in 1844 Haiti and the Dominican Republic had the same income per capita, we find a growth differential between Haiti and the Dominican Republic of 1.05% which is almost identical to the lower bound estimate of Patillo, Poirson and Ricci's (2011). One challenge in assuming that the growth differential between Haiti and the Dominican Republic is driven by French debt is that the growth divergence happened after 1960. At that point the two countries had a similar GDP per capita, but over 1960–2018, real income per capita in the Dominican Republic grew at about 3% per year, while in Haiti real income per capita stagnated. Given that when the growth divergence happened debt was low, it is necessary to assume that high level of debt in the nineteenth century and early twentieth century had long lasting effects possible because they led to institutional and political failures or to lack of investment in human capital (see the IMF quote above on the primacy of revenue raising). The need to service the debt may have also contributed to Haiti's deforestation with long lasting effects on GDP growth and exposure to natural disasters. The French debt may have also made Haiti's suspicious of other countries and hence limited its willingness to integrate with the rest of the world. For a discussion of the comparative growth experience of Haiti and the Dominican Republic see Jaramillo and Sancak (2009).

To assess the value of this growth differential, assume that we could increase Haiti's GDP from \$1400 (the 2018 value) to the \$8100 of the counterfactual and compute the present value of 30 years of this \$6700 annual flow difference with a 5% discount rate. This calculation yields a present value of \$103,000 per capita, which, multiplied for Haiti's population of 11 million, gives us \$1.1 trillion. An enormous number.

Let us now make a much more conservative assumption on the negative growth effect of Haiti's 1825 debt. Specifically, let us assume that the negative effect is just *one-fifth* of the lower bound of Patillo, Poirson and Ricci's (2011) 1% estimate. In this case, Haiti's GDP growth over 1844–2018 would increase from 0.6 to 0.8%, yielding a counterfactual 2018 GDP per capita of \$1700. Even this modest increase of GDP per capita, would have a present value \$4600 dollar per person and a total value of nearly \$51 billion (3 times Haiti's GDP in 2018).

Taken together, the exercises of this section (summarized in Table 1) suggest that the economic cost of the 1825 debt is likely to be a multiple of Haiti's 2018 GDP.

## 4 Implications for Odious Debt and for Potential Compensation for Haiti

Our objective in this paper has been to introduce the story of the Haitian Independence Debt to a literature that has long overlooked it, the literature on odious debt. Recall that, as traditionally defined, the legal doctrine of odious debt applied only to loans contracted by a despotic regime. This despotism requirement has scant historical support and a weak theoretical foundation. When a lender has reason to know that a loan will offer no benefit whatsoever to the population of the borrower state, the function of the doctrine is to allocate the risk of loss as between the lender and the population. When the borrower regime is despotic, this may

**Table 1:** Value of Haiti's 1825 debt in 2020 USD under different assumptions.

Assumption	Billion USD
Gold value	1.6
1% Real return	2.9
3% Real return	125
Constant share of GDP	22
1% Negative growth effect of high debt	1100
0.2% Negative growth effect of high debt	51

justify allocating the risk to the lender. But we see no principled reason to categorically insure the lender from this risk simply because the borrower's regime enjoys some degree of popular backing.

We recognize that there are reasons for caution before embracing an expanded definition of the doctrine. Indeed, some might argue that the Haitian Independence Debt does not satisfy even an expanded doctrine of odious debt that is not limited to borrowing by despotic regimes. After all, Haiti got *something* in exchange for the debt: official recognition by France, which had refused to recognize the *de facto* independence won decades earlier in the revolution. And official French recognition led to other benefits, such as recognition by the British soon after. Nevertheless, our estimates of the economic cost of the debt suggest that Haiti's paid a staggering economic price in its fight for independence, to say nothing of the human costs associated with that struggle. Historically, we also see few parallels for Haiti's experience, in which a former colonial ruler, under circumstances suggesting coercion, imposed such an extraordinary debt burden as the retroactive price of independence. In any event, we welcome arguments of this nature. What we find perplexing is the absence of discussion of this historical episode from the literature on odious debt.

Moving beyond the context of the Haitian Independence Debt, some might object that an expanded odious debt doctrine—one not limited to despotic regimes—would be over-inclusive and destabilizing. Investors have incomplete information about how loan proceeds will be used. Assessed *ex ante*, a loan that funds military equipment is neither good nor bad for the populace; it is the use that determines whether the loan provides a benefit. Moreover, money is fungible. A loan might enable political actors to engage in repressive or corrupt conduct even if it did not directly fund the activity. Finally, not all investors are well-positioned to make judgments about whether a loan will benefit the borrower's populace. Dispersed bondholders may know little about the policies and activities of the countries they fund. They may not even know *which* countries they fund. Given these uncertainties, a doctrine that allowed tribunals to deny enforcement *ex post* might do more harm than good.

The broader question—and one that we do not think the literature has engaged with sufficiently—is whether limiting the doctrine to despotic regimes is an appropriate response to these concerns.<sup>66</sup> We see two, related possible justifications for the limitation. First, as noted earlier, perhaps despotism is a useful proxy

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<sup>66</sup> As others have noted, there may be ways to provide investors with *ex ante* clarity about loan enforceability—for example, through regimes that effectively license “good” borrowers and loans, or that immunize lenders who follow appropriate diligence procedures (e.g., Jayachandran and Kremer 2002; Shafter 2007).

for scenarios in which the populace cannot constrain the ruler's borrowing decisions. If so, then it may make sense to assign the risk of loss to the lender. And while non-despotic regimes also incur debt that does not benefit the populace, perhaps this is rare enough—or difficult enough to detect—that it makes sense to entirely exclude these regimes from the doctrine. Relatedly, if despotic rulers are more likely to misappropriate funds or use them to repress the populace, then despotism may also be a proxy for illegitimate borrowing. And again, perhaps such illegitimate borrowing is rare enough in non-despotic regimes that it makes sense to exclude them entirely from the doctrine. However, these are fundamentally empirical arguments. If they are to justify the rule limiting odious debt doctrine to despotic regimes, they should be made and defended explicitly. The Haitian Independence Debt offers a useful test case. Perhaps some would argue that the Haitian government led by Boyer was despotic, although the term seems inapt when applied to the ruler of a newly-independent state that was brought under unified rule only five years earlier. But if not, we see little value in a doctrine that would treat the Haitian Independence Debt as anything other than odious.

Of course, even if one acknowledges the odiousness of the Haitian Independence Debt, it is a separate question whether there is a right to compensation. The immorality of the debt has been acknowledged, including by many in France (Granitz 2015). But the passage of time, and the lack of clear rules of international law, complicate any effort by the Haitian government to win restitution for amounts paid or compensation for the long-term economic harm. A number of student papers have addressed this question (e.g., Boltax 2021; Fernandez, Casey, and Nikova 2021; Hart 2021; Phillips 2009), but we have not seen sustained legal analysis of the difficulties inherent in such a proceeding.

In a companion paper (Oosterlinck et al. 2022) we set out the basics of why a successful legal claim would be difficult, although perhaps not impossible, to make. Here, we note only that there was an attempt in 2004 to bring such a claim when President Aristide was in office (de Cordoba 2004). In the course of working on this article, we spoke informally to a number of the lawyers involved in that effort. Ultimately, no lawsuit or arbitration claim was filed; President Aristide was overthrown in a coup in 2004 and the new government was not interested.<sup>67</sup> But the lawyers had wrestled with both the merits and with the related question of how to find a tribunal with jurisdiction over the dispute. Although they did not share work product or confidential information with us, our sense was that they had fair amount of confidence that Haiti could force France to defend itself against claims arising out of the Haitian Independence Debt. And then there is the question of

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<sup>67</sup> Some suggest that the coup and the new government's unwillingness to trigger the ire of France were related (Farmer 2004).

whether there might be a claim against the descendants of the financial institutions who lent Haiti the funds to pay France the indemnity.

On the merits, Haiti's claim against either set of parties would be a long shot. But even long shots have value, including in scenarios involving disputes arising out of colonial obligations. One example involves the recent Chagos litigation (Sands 2020). There, not one but three international tribunals have ruled in favor of Mauritius against the United Kingdom (and, effectively, the United States) in its claims that some of its islands were improperly taken a half century ago—as *quid pro quo* for the UK giving Mauritius independence (Waibel 2021) – and that the failure to return them amounts to incomplete decolonization. These rulings do not formally bind the UK, which has yet to return the territory, let alone pay compensation for the improper taking. But this and other recent cases represent small steps towards acknowledging, and providing some redress for, the harm associated with colonial rule.

These are complicated matters and we do not have good answers for them. But they are important. And, as our back of the envelope calculations show, they are not only important from an academic point of view because restitution of the improperly imposed debt could lead to large financial transfer to Haiti; a country in severe distress as of this writing.<sup>68</sup> More research is needed in order to bring clarity in on this often forgotten episode in the history of sovereign debt.

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<sup>68</sup> An important and interesting question that we do not address here is whether the optimal form of compensation is financial—particularly if there is concern that the compensation would not go to the Haitian people and that other forms of compensation such as work visas and scholarships to study in France might be better.

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