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Rethinking Sovereign Debt: Politics, Reputation, and Legitimacy in Modern Finance

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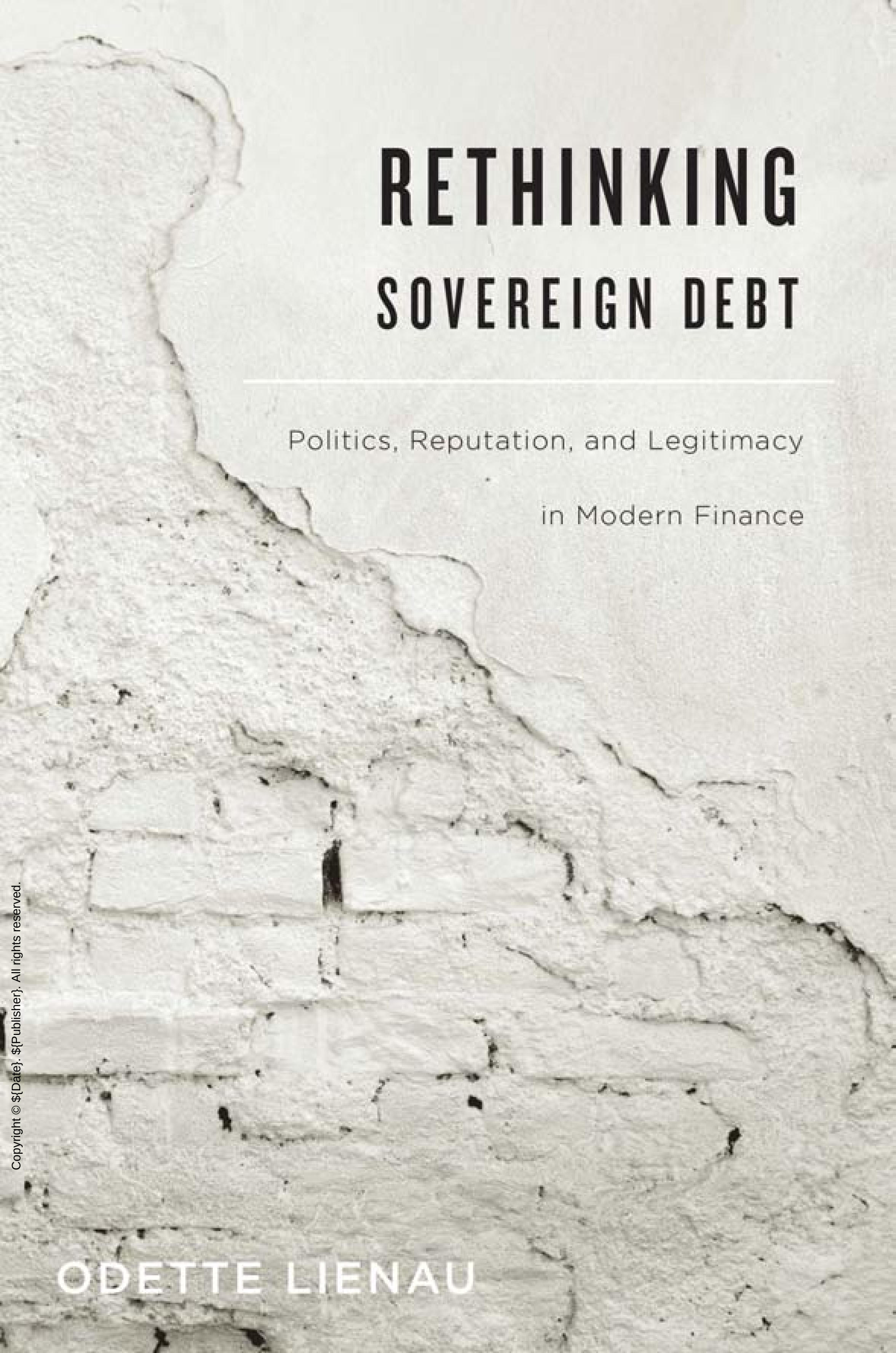

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For my parents and Aziz

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Open Questions in Sovereign Debt

Sovereign debt markets have demonstrated incredible resilience despite a century of dramatic political and economic upheaval. Among the most remarkable aspects of the contemporary debt regime is the degree to which expectations of borrowers remain relatively uniform even in the face of such major shifts. These basic expectations resolve into one background rule: sovereign borrowers must repay, regardless of the circumstances of the initial debt contract, the actual use of loan proceeds, or the exigencies of any potential default. This is not to say that countries always pay; certainly, they do not. But the background rule remains, and it sets the standard by which creditors and others form their reputational judgments and against which sovereign borrowers are evaluated and chastised.

This repayment norm helps to immunize the debt regime from serious challenge and to stabilize the massive sums at stake. In particular, it buttresses our avoidance of prickly questions about fairness and appropriateness in the international economic arena. Several troubling queries in recent decades include: Should a black-African-led South Africa really be expected to repay apartheid era debt? Or, given that Saddam Hussein was a dictator who used funds for the oppression of a majority of Iraq's population, would it be appropriate to require future Iraqi generations to pay for his iniquity? More generally, who counts as the "sovereign" in these debt situations—is sovereignty just the legal shell for whoever happens to control a territory, or does it imply underlying principles of legitimate representation or public benefit? And how might all this fit into assessments of a country's creditworthiness?

Notwithstanding such questions, the repayment norm exerts a particular kind of power in international economic relations by shaping expectations of appropriate action in the area of sovereign debt. The rule is strengthened by its popular identity as a market principle, with effects that can be identified and measured but that ultimately cannot be changed. A study commissioned by the United Nations Conference on Trade and Development (UNCTAD) noted,

> one of the major policy concerns that has deterred some transitional regimes from repudiating "odious" debt from the previous regime is that of reputation in the capital markets; a transitional regime may be concerned that creditors will not in the future provide access to funds, because they are unable to distinguish the exceptional political decision to repudiate debt due to its odiousness from the general creditworthiness of the regime.[1]

The narrative shaping such decisions suggests that without the background rule of consistent repayment, reinforced by the disciplining mechanism of reputation, lending to many sovereign states would disappear. International debt markets in the absence of a clear cross-border enforcement mechanism would be too risky, requiring more information on sovereign borrowers' subjective repayment proclivities than would be worthwhile for any creditor to collect. Although the repayment norm is most starkly applied in situations of regime change and transitional justice, its expectations filter into the prospects and bargaining positions of debt negotiations more generally. If repayment is expected *even* in such extreme circumstances, then debtors should *certainly* bear the burden in other situations that might emerge. By policing the boundaries of the sovereign debt regime—and ensuring that such issues remain marginal—this rule keeps the core flow of capital safe and relatively free of controversy.

In this volume, I argue that the market narrative supporting the repayment norm is overly simplistic and in some respects entirely wrong. It forgets to ask key questions about the relationship between sovereign debt, reputation, and legitimacy over the last century—questions that have surprising answers embedded in the historical development of modern finance, with significant ramifications for how we approach debt markets in the future. How have we come to think that the norm of sovereign debt continuity—the rule that sovereign states should repay debt even after a major regime change and the related expectation that they will otherwise suffer reputational consequences—is more or less unavoidable for a working international financial system? Is it possible to think of an alternative approach—or find one historically—in which odious debt ideas and selective debt cancellation might be incorporated into a functioning debt market grounded in reputational assessments? And if so, why hasn't such a system developed, especially given the politicized discussions of sovereign legitimacy that have taken place alongside the development of modern finance?

The framing of repayment and reputation as a market principle—one that disciplines debtors and creditors alike—discourages this type of questioning in part by propagating the following three assumptions. First, although creditors may assess a specific borrower's political characteristics through the lens of sovereign risk, judgments about a borrower's repayment decisions are not shaped by politics per se. Rather, they are simply the best objective assessment of a given set of material facts. Second, the mechanism of sovereign reputation itself is similarly free from subjective and historically variable political judgments. And third, all rational creditors are expected to respond in basically the same way to particular market events—especially those events that challenge the principle of continuous repayment. Therefore, it is not necessary to study the historically conditioned identities and interests of particular creditors to understand how capital markets, as a whole, will respond to any given sovereign action. These assumptions of political neutrality, reputational stability, and creditor uniformity support an assessment that the basic contours of the sovereign debt regime are effectively unchangeable.

In the following pages, I contend that, far from being the stable and all but inevitable market principle we sometimes imagine, the debt continuity norm is intrinsically political and historically variable. It has been shaped over the last century by political actors, broader ideological shifts, and changing public and private creditor structures. To begin with, any discussion of sovereign debt is rendered intelligible *only* by quietly incorporating a definition of "sovereignty" that is necessarily normative. Depending on the theory of sovereignty implicitly or explicitly adopted in international economic relations at any given time, the practices of sovereign debt and reputation may diverge significantly. Furthermore, creditor uniformity cannot simply be assumed, and in fact different creditors may interpret—and historically *have* interpreted—the same politicized debt repudiation in opposing ways. A close look at the post-World War I cases of the Soviet Union and Costa Rica suggests how, under conditions of market competition and ideological flexibility, creditors can make rational reputational judgments in favor of post-repudiation lending. The absence of similar cases later in the century resulted not from rigid market certainties but instead from changes in creditor interactions and broader norms of sovereignty. These shifts in turn followed from choices by actors such as the World Bank, globalizing private banks, and the US government.

What might this theoretical instability and historical variability mean for the repayment norm today? A strict rule of sovereign debt continuity after regime change is hardly necessary for workable reputational assessments in international capital markets. Alternative approaches, incorporating ideas of illegitimate debt and allowing for limited cancellation, emerged historically and could function more fully in the future. Thus scholarly and popular discussions of sovereign debt have the potential to be much more wide-ranging than their current contours imply. That said, the norm is deeply embedded in international finance and can't simply be argued away, and it is more powerful than much conventionally enforceable treaty law at shaping international actions. Indeed, on difficult issues like debt repayment after regime change and potentially illegitimate debt there is no multilateral treaty in force, even despite several efforts. Legal scholars and activists have attempted to resuscitate ideas such as a formal doctrine of "odious debt," according to which a fallen regime's debt need not be repaid if it was not authorized by and did not benefit the underlying population.[2] However, efforts to alter the repayment standards run up against already powerful practices of debt continuity—something of a global soft law in hiding—that have the predictability and compliance pull of conventional law if not its external trappings.

To think seriously about altering the current framework, then, it is necessary to recognize its theoretical supports and historical foundations. In this introductory chapter, I aim to lay the groundwork for such an understanding. I begin by filling out the analytical problems with the conventional approach to sovereign continuity in debt and reputation, and identify opposing "statist" and "non-statist" ways of thinking through the question. I then highlight how we can study both the historical variation in this norm and its political underpinnings through the issue of odious debt. This introduction also provides an overview of the historical arc of my argument, which underscores that other approaches to debt continuity emerged in the early twentieth century and suggests how they were covered over by broader political and financial trends in the latter part of the century. Finally, I discuss the role of power and interest in the long-term development of a norm that, over time, has exercised significant power in its own right.

Problems with the Conventional Wisdom

The assumptions of neutrality, reputational stability, and creditor uniformity that underpin the repayment norm are, if not entirely mistaken, at least greatly oversimplified. Although I expand on this claim more fully in chapter 2, a quick overview is warranted up front. To begin with, one of the most puzzling elements of the conventional narrative is the notion that the sovereign debt regime's repayment rule could be apolitical. The mere mention of sovereign debt invokes one of the most politically controversial concepts in global affairs and international law: sovereignty. And perhaps unwittingly, a very distinct political theory of sovereignty supports the current system of international lending. In discussing arguments that the post-2003 Iraqi regime should be freed of Hussein-era debt, a *Financial Times* leader noted, "The principle [being attacked] is sovereign continuity—the idea that governments should honor debts contracted by predecessors. Without this, there would be no lending to governments."[3] Sovereign continuity means that the same "sovereign" remains, and thus is subject to the same contractual obligations, regardless of any internal political changes. It effectively derives from what I call throughout this book a strictly *statist* conception of sovereignty—the idea that the content of and changes in a state's internal structure, interests, and popular support are irrelevant to its status as a legitimate sovereign and thus to its external relations and obligations. While this statist vision has deep roots in global affairs, it is heavily contested in legal and international relations theory, and indeed it has been subject to debate and alteration over the twentieth century and into the twenty-first. In particular, the possibilities of democratic sovereignty or a sovereignty legally bound by constitutional norms are some of the *non-statist* concepts of sovereignty that have gained considerable traction in the international arena. An international economic regime more attuned to these alternative, non-statist concepts should be much more hospitable to something like the odious debt idea mentioned above—and thus more amenable to noncontinuity and debt cancellation under certain circumstances. Indeed, I suggest that the necessity of a statist repayment rule for continued sovereign lending is a contestable claim. But what is perhaps most puzzling is the way in which, in the face of these multiple alternatives, a statist political theory has become so thoroughly embedded in the sovereign debt regime that its deeply *political* character effectively disappears.

Turning to reputation does not in and of itself provide a sufficient answer. Just as the rule of continuous repayment depends on a particular vision of legitimate sovereignty, the reputational mechanism supporting this rule takes the same implicit theoretical approach. The determination of *which sovereign* a reputational assessment attaches to is necessarily infused with a background, historically informed political judgment: Should a recently anointed democratic government, flush from the overthrow of a dictator, be assessed as a new, untested sovereign? Or is it evaluated as a continuation of the previous regime? The statist and non-statist approaches suggest very different responses. In short, the call for a reputational assessment does not on its own necessitate the adoption of a statist political theory. It is entirely possible to maintain the importance of reputational assessments in general while accepting that debt repudiation should *not* result in a lending hiatus in all cases. Far from leading in a mechanistic way to the repayment-as-market principle conclusion, reputational judgment itself is fairly flexible. This plasticity suggests that the category of “excusable default”—sovereign defaults justified by major events such as natural disasters and thus having only modest reputational repercussions—may be broad enough to include principled *political* defaults under certain circumstances.[4] It also deepens the puzzle of how the very notion of a working reputational mechanism became so thoroughly intertwined with a statist insistence on debt continuity that the possibility of alternatives faded away.

Perhaps this all leads to the final key assumption of the market principle story—that rational creditors will respond in basically the same way to market events, and in particular will respond in the same hostile way to events that challenge the rule of continuous repayment.[5] Certainly, the norm of sovereign continuity provides something of a windfall to creditors as a whole; it means that states will be expected to repay debt that might have been subject to cancellation under alternative sovereignty frameworks. But even accepting this windfall, what would account for the *conceptual* strength of a statist approach relative to all others? Part of what is interesting is the absence of any acknowledgment that non-statist concepts are entirely consistent with making reputational judgments. Is it possible that creditors coordinate to suppress the very idea that non-statist approaches are possible, including in academic and broader policy discussions of sovereign debt? This would be quite a feat of deliberate collusion—one for which there does not appear to be evidence, though such findings undoubtedly would be newsworthy. I find it more likely that contemporary creditors, and those that write about them, have been similarly conditioned to understand the rules of repayment and reputation according to a fairly narrow political theory.

But even the initial assumption of a shared creditor interest in universal repayment is problematic, and is not fully supported by the historical record. To begin with, it is not entirely clear that all creditors would oppose nonpayment in all instances. This could be the case if, for example, a creditor accepted as plausible the argument that a successor regime constituted a new sovereign, worthy of modest and appropriately priced investment, rather than an intransigent continuation of the previous regime. Such a stance would effectively indicate a reputational assessment consistent with a non-statist concept of sovereignty. While a creditor would hardly be keen to hear such an argument from its own debtor, it might be more receptive to such an argument from a new potential client, particularly in the context of a competitive market.

Furthermore, there are historical instances in which creditors respond in entirely different ways to the same debt repudiation. The Soviet repudiation of tsarist debt, perhaps the most notorious default of the twentieth century, is generally proffered as an exemplar of the reputational risk associated with repudiation, for example in Michael Tomz's important work on reputation in sovereign debt markets.[6] Read as such, it would support the repayment rule's status as a uniform and historically stable market principle. However, as I argue in chapter 3, this reading, based principally on the fact that the new regime was unable to float bonds on the international capital markets, overlooks key elements of the historical record. In fact, while creditors of the previous tsarist regime remained very hostile and insistent on repayment, several newer American banks actually sought to facilitate long-term bond issues by the new Soviet government in the 1920s. These banks were halted not by a reputational assessment—indeed they were impressed by the Soviet Union's reliable payment of shorter-term trade credits—but rather by the US government's *political* hostility to the regime. A closer look at both the theory and history of creditor interaction thus demonstrates that the existence of a relatively uniform creditor approach to sovereign reputation cannot simply be assumed but has to be explained.

What does this mean for the solidity of the sovereign debt regime, including its bulwark rule of repayment and its coordinating reputational mechanism? It is true that settled expectations and market practices have developed, which shut off questions of sovereign legitimacy that might reasonably be at the center of international lending. An equilibrium of sorts has been reached, and any countervailing pressure has thus far been insufficient to produce a real shift. But this does not foreclose the possibility that there are several potentially stable market norms—or multiple equilibria—that could yet develop or that might have developed historically under different circumstances.[7] The fact that the current system looks to many like an immutable market principle, with seemingly consistent creditor reputational assessments, constitutes a puzzle in itself. So far, we have yet to see a satisfactory explanation for this puzzle.

Odious Debt as Sovereignty in Practice

Even if the market principle assumptions underpinning the contemporary norm of sovereign debt continuity do not hold, where does that leave the repayment rule as a practical, historical matter? For any given sovereign borrower, international debt practices can still seem an extremely unyielding edifice. Nonetheless, the theoretical instability does point to the possibility of empirical study and encourage a closer, more critical look at the historical record. If we know that the current approach is inherently political and necessarily historically shaped, there should be a way to identify the assumptions and assessments that underlie a particular moment in international finance.

Even acknowledging the plausibility of empirical study, asking how the practices and reputational underpinnings of debt continuity interact with historically grounded ideas of legitimate sovereignty remains quite difficult in practice. The issue of sovereignty is notoriously slippery and does not easily lend itself to concrete examination. And accepting that a contested concept such as sovereignty plays an important role in any discussion of sovereign debt and reputation does not in itself grant access to its workings. Usually, the question of who might constitute the legitimate sovereign in economic relations remains in the background and is largely forgotten. States enter into and threaten to default on international contracts fairly regularly, and the particularly *political* character of sovereign debt is rarely raised by either party.

There are certain types of debt repudiation, however, that bring these background matters to center stage. Central here is the issue of odious debt, which in the most common formulation arises when an illegitimate regime contracts debt that is not authorized by and does not benefit a nation's people. This idea helps us think through questions of politics and authority in sovereign debt, and makes observable—or operationalizes, in the preferred language of social science—the idea of sovereign legitimacy underpinning the debt regime at a given moment. The classic legal doctrine of odious debt, first developed after the Spanish American War of 1898 and formalized by Alexander Sack in 1927, states that sovereign state debt is "odious" and should not be transferable to successors if the debt was incurred (1) without the consent of the people, *and* (2) not for their benefit.[8] This doctrine directly counters the norm of sovereign continuity in two ways, corresponding to the two prongs of the doctrine. It first suggests that some form of popular consent may be relevant to the existence of binding debt obligations, contradicting the statist theory of sovereignty that underlies sovereign continuity. Alternatively, it highlights the centrality of a debt's *purpose* by noting that any binding sovereign obligation must be entered into for the purpose of benefiting the underlying people.[9] As a whole, it remains fairly conservative—a creditor can expect to be paid so long as the funds are either authorized by the people or are incurred for the public benefit.[10] Were the doctrine to be adopted more broadly, it is likely that most sovereign debt incurred in the contemporary era would still be binding most of the time.

Although Sack's formulation is the one cited by scholars as "the doctrine of odious debt," multiple permutations are possible when we consider the many available theories of governmental representation and legitimate state purpose.[11] Indeed, recent scholarship on the idea of odious debt has frequently focused on how it might be altered and applied as a contemporary doctrine.[12] For the purposes of this book, however, the key point is that all versions of an odious debt idea challenge the dominant statist vision of sovereign continuity in international economic relations. If we are concerned with the existence of a stronger representative link between a state and its people, then the idea of certain types of principled debt cancellation makes sense; it seems philosophically and legally problematic to expect a state's people to pay back debt that they did not authorize and from which they derived no benefit. In other words, an application of non-statist visions of sovereignty to international economic relations suggests that debt should *not* be continuous in some cases. Conversely, if we subscribe to a strictly statist approach to sovereignty, then it logically follows that all debt should be repaid, even if it is "odious," because popular consent and benefit are irrelevant.

The idea of odious debt also gives us some traction in analyzing the historical record, by hinting that challenges to the norm of sovereign continuity and uniform debt repayment might be more likely in times of regime change. Although the enforcement of any sovereign debt necessarily rests on a theory of sovereignty, usually this remains a background issue. However, when a regime changes, the incoming regime frequently seeks to distinguish itself from its predecessor, and may consequently seek to free itself of the predecessor's debt obligations on the basis of right. Sack distinguished between proper "national debt" and the "personal debt" of a previous regime, and argued that only the former should continue to successors:

> If a despotic power incurs a debt not for the needs or in the interest of the State, but to strengthen its despotic regime, to repress the population that

> fights against it . . . [t]his debt is not an obligation for the nation; it is a regime's debt, a personal debt of the power that has incurred it, consequently it falls with the fall of this power.[13]

Broadly speaking, regime change constitutes those moments at which a new agent claims to represent a nation's people. The most extreme transformation involves state succession, in which there is a change of sovereignty over a given territory, as in the case of decolonization. A change in government administration stands at the opposite pole, in which there is a legitimate change in leadership within an existing political and constitutional framework.[14] For the purposes of this book, a regime change—or government succession—is the intermediary action, in which there is no alteration in the most basic form of sovereignty (which remains vested in the same territory and people), but where there has been a significant change in the political and constitutional structure and associated practices.[15] The idea of odious debt thus provides some guidance as to the types of claims states may make in using non-statist concepts to problematize the norm of sovereign debt continuity. It also hints at the times that states are most likely to make such claims. In short, this framework helps us think through ways to study how modern debt practices developed toward a relatively narrow approach, that is, to so uniformly expect a statist continuity practice despite other possible alternatives.

Broader Politics and Creditor Competition in the Last Century

Even if the issue of odious debt offers some guidance as to when challenges to sovereign continuity might arise, it leaves open the questions of which historical period is most relevant for an empirical study and which factors are likely to be most influential in shaping understandings of sovereign debt. It also does not address how these elements might interact and the way in which power and interest, so central in the development of global practices, play into the narrative.

To begin with, the dilemma of where to start a historically grounded investigation is never easy. This is especially true here, where different ideas of sovereignty have existed in political and legal thought and practice for a very long time. In this book, I begin the discussion in the early twentieth century, when questions about legitimate and illegitimate forms of rule familiar to contemporary audiences became more prevalent on a global scale. The idea of odious debt itself developed in part out of admittedly self-interested US actions following the Spanish-American War of 1898. The Spanish Crown argued that the United States should assume debts that the Crown had contracted on behalf of Cuba. The United States refused, insisting that the debts were contracted by the previous Spanish regime in its own interests, which were distinct from and even in opposition to the interests of the Cuban population. As such, the United States argued, the debts were illegitimate and should not be transferred to the Cuban population or its new US protectors.[16]

As the early twentieth century progressed, such non-statist conceptions of self-determination and popular sovereignty spread more widely. The aftermath of World War I involved a major overhaul of organizing principles in international relations, including the beginnings of decolonization and a tentative universalization of the basic animating ideas of the American and French Revolutions. In particular, different visions of self-determination became ideals accessible, at least in theory, to all people for the first time. The new normative framework was promoted by such ideologically divergent figures as Woodrow Wilson and the early leaders of the Soviet Revolution. This rejection of imperialism and internal forms of absolutism at the international level, along with the more global application of ideas of sovereign equality, poses the strongest historical starting point for questions of political legitimacy in modern finance. In other words, the widespread emergence of non-statist approaches to sovereignty in the early twentieth century presses the issue of how these concepts were received and developed in the realm of sovereign debt and reputation. And the strengthening of such frameworks by the late twentieth century makes even more puzzling the question of why the norm of sovereign debt continuity, grounded as it is in contrary ideas of sovereignty as physical control, remained dominant in contemporary finance .[17]

Moving to the second question of which elements might be most influential in actually shaping these sovereign debt practices, I argue that two interacting factors are especially important for understanding how non-statist odious debt ideas emerged briefly and then declined in the decades since World War I, allowing continuity norms to develop the veneer of a market principle. First, I contend that the *ways in which creditors are consolidated or competitive* in their interactions and risk interpretations affect the degree to which non-statist approaches are accepted in sovereign debt. To the extent that creditors view each other as part of the same group and so have a consolidated interpretation of risk, a strictly statist insistence on continuity is likely to be dominant. In times when creditors are more competitive and they consider *each other* to be significant risks, sovereign debt norms should be subject to greater contestation. Thus, although creditor uniformity is not a theoretical given—contrary to what is frequently assumed—the degree of creditor uniformity at any particular historical moment remains a relevant factor. As the second key element, shifts in *broader norms of sovereignty* in the international arena affect the to which we consider odious debt ideas plausible in international economic relations. A strictly statist framework of sovereignty dominant in the world at large will support a similar approach in the area of debt, whereas non-statist sovereignty norms might problematize the rule of continuity. Although they are not central in every instance, broader political and legal understandings of sovereignty (be they statist or popular), political ideology, and insistence on principle are neither epiphenomenal nor merely "cheap talk." Rather, they can play a central role in conditioning the initial assumptions and ultimate responses of key actors in any sovereign debt interaction. Given the multiple historical forces that shape these elements, it is difficult as a matter of general theory to make predictions on the balance between them. However, the basic character of this relationship is presented schematically in Table 1.1:

TABLE 1.1. Interaction between Creditor Risk Interpretations and Norms of Sovereignty

		Broader Concepts of Sovereignty in International Relations	
		Statist Concepts Dominant	Non-Statist Approaches Resonant
Creditor Interaction / Risk Interpretations	**Consolidated** (Less flexible; likely to insist on continuity)	Norm of debt continuity stronger *(Mid-twentieth century)*	Ambiguous (Depends on strength of non-statist concepts)
	Competitive (More open to borrower claims)	Norm of debt continuity likely (Any default or repudiation likely made on different grounds)	More flexible treatment & acceptance of odious debt ideas possible *(Post-WWI)*

An Overview of the Historical Record

What does this mean for thinking through the development of sovereign debt norms over the course of the twentieth century and into the twenty-first? The background ideas of political legitimacy grounding any sovereign loan or any reputational assessment come to the fore through claims of illegitimate debt. Although instances of debt repudiation are not numerous, they do suggest that the continuity norm is not predetermined and also highlight how creditor interaction and broader conceptions of sovereignty make flexibility more or less likely at certain historical junctures.

In this book, I begin the historical narrative in the tumult following World War I, which accompanied a rise in the non-statist concepts of sovereignty that should resonate with more flexible debt practices. This greater ideational openness in the early part of the twentieth century converged with an injection of fresh competition into the international credit markets due to the emergence of new American banking houses. As surplus American capital sought investment outlets overseas, these relatively young US financial institutions—supported by expanding US political interests—began to fight for a piece of the credit market previously dominated by British and French banks. These ambitious new creditors were less concerned by losses imposed on their established competitors, and remained more open to gaining a potentially reliable client even at the expense of a commitment to strict debt continuity.

The two early twentieth-century cases presented fully in chapters 3 and 4 illustrate how these emerging principles and market structures resonated in the world of debt claims. In 1918, the new Soviet Union annulled the foreign loans contracted by the tsarist regime, arguing effectively that they constituted personal debts of the Tsar and not legitimate debts of the new Soviet Republic and its people. Although this alienated European and especially French debt holders, several New York banks that were newer to international lending actually attempted to facilitate the issuance of Soviet securities in the face of resistance from their own government. In 1920, Costa Rica repudiated the debts entered into by the previous dictator Federico Tinoco, after returning to constitutional rule following a two-year aberration. US Chief Justice Taft, ruling in an arbitration between Costa Rica and Great Britain, distinguished between debt contracted for "personal" as opposed to "legitimate government" purposes, and held that only the latter could exist past the downfall of a regime. Perhaps surprisingly, the Costa Rican regime was not cut off from the international capital markets as a result of its repudiation or

Justice Taft's decision. The victors of World War I also seemed to reference an odious debt idea when they included the repudiation of Polish debt in the Treaty of Versailles in 1919. The treaty repudiated the debts that Germany had contracted on behalf of its colonies, particularly on behalf of Poland to fund the settling of ethnic Germans in Polish land. The Reparations Commission took the standpoint that "it would be unjust to burden the natives with expenditure which appears to have been incurred in Germany's own interest."[18]

This ideational and material background shifted in the post-World War II era, as I discuss in chapters 5 and 6. Creditors were harmed badly during the defaults of the Great Depression. In the cautious postwar economic recovery, they developed closer ties with each other through international financial institutions such as the early World Bank, private banking integration, and global loan syndications. Creditors became more consolidated in their interpretation of threat through these interactions, such that questioning the doctrine of sovereign continuity under any *particular* circumstance seemed more like an assault on the rights of creditors *generally.* As to ideational elements, the concept of popular sovereignty and the efforts to distinguish legitimate and illegitimate government that dominated post-World War I discourse subsided in the destruction of World War II. Although the new United Nations did support local sovereignty and self-determination, these terms during the Cold War emphasized a norm of nonintervention and ultimately leaned toward a statist viewpoint. In short, a closing in what constituted the interests of creditors was matched by a narrowing of the discourse surrounding sovereignty and sovereign debt.

The cases reflect this mid-twentieth-century trend, and the era did not follow up on the potential turning point of the post-World War I period. The People's Republic of China repudiated the debt of its predecessors, but remained marginalized in the international credit markets for decades. A repudiation of many foreign financial contracts followed the 1959 Cuban Revolution, and a similar sidelining resulted in that case as well. The remainder of the Cold War era saw few claims of right associated with an odious debt idea. Even following major social revolutions in Nicaragua and Iran in 1979, as well as after a series of democratizations during the 1980s' debt crisis, countries ultimately adhered to the principle of debt continuity. The statist approach to sovereignty in sovereign debt, which came under question in the early twentieth century, had reconsolidated its dominance.

The increasing breadth and depth of financial integration since the 1970s has arguably made "international finance" a more singular force than in previous eras. Still, the post-Cold War decades have also shown a degree of movement toward greater flexibility in repayment norms, as I discuss in chapter 7. In the ideational arena, concepts of democracy and constitutionalism and more substantial attention to human rights have made headway. Although a definitive claim cannot yet be made, it is possible that the post-Cold War era and the beginning of the twenty-first century has witnessed a new opening in the sovereign debt regime's notions of sovereign legitimacy and continuity. The idea of odious debt has regained some of its earlier traction, and scholars and social activists have focused on the potentially problematic foundation of a portion of the developing world's debt today. As for the creditor interaction factor, a shift to greater use of bonds rather than bank financing has disaggregated creditors somewhat. In addition, new sources of capital such as south-south flows and sovereign wealth funds have disrupted the north-south financing divide of the late twentieth century. However, countervailing financial trends exist—notably the rising importance of credit rating agencies and credit default swaps, all of which can unify the inherently multiple voices of capital into a single chorus. In short, the credit market structure is more ambivalent in its effect. But some possibility still remains that the historical trend over the last hundred years is more U-shaped than unidirectional.

Power, Interest, and Norms in Sovereign Debt

Students of international relations may raise the question here of how power and interest factor into into this historical narrative. As a general matter, I agree that actors in the global arena use "power" to further "interests." However, this formulation frequently is too indeterminate to be especially useful, especially for understanding the development of long-term practices rather than for explaining singular events. In particular, it misses the role that norms themselves—expectations of appropriate behavior shared by a community of actors—have in shaping how interests are formed and how actors' capacities are deployed. Understood most broadly, the work of a norm such as sovereign debt continuity exists through both the expectation or standard itself as well as the ways in which we understand and speak approvingly about it and the actions that reflect and reinforce it. Indeed, I view expectations, discourse, and action as a mutually reinforcing package that develops over time and that therefore tends to evade ahistorical explanation.

To begin more specifically with questions of interest, part of my argument is that it is hard to know in advance what an actor's interest is likely to be at any given moment. For example, one might say creditors are generally self-interested and concerned with making a profit. However, this does not necessarily indicate what they will interpret as the right course of action at a particular historical juncture. Certainly, as I explain in greater detail in chapter 2, it does not suggest that all creditors always insist on uniform debt continuity. Indeed, the wildly volatile trends in what is considered rational, possible, or prudent in international financial circles bear testimony to this uncertainty.[19] It is also possible that certain creditors have interests beyond pure profit and actually embrace particular visions of sovereign legitimacy.

Even assuming a profit motivation, I argue in part that larger, historically conditioned structures of creditor interaction are relevant to shaping interpretations of interest and rational action. Individual creditors may well have created these larger structures—including institutions such as the World Bank, instruments such as syndicated loans, formal and informal rules, and so on—to support their own interests at a particular time. But the longer-term consequences of these frameworks tend to go well beyond the founders' initial objectives as they take on a life and dynamic of their own. Farther down the road, these structures can in turn shape how the same or subsequent actors interpret their interests, roles, and identities in ways that would not originally have been foreseen. Thus, there is a necessary and mutually constitutive interaction between actors and broader institutions and norms—between agents and structures—that affect how interests are formed and understood.[20] This book takes a long view of the development of debt continuity in part to understand this mutual construction.

Claiming that power matters is similarly indeterminate and overlooks a parallel dynamic. To begin with, multiple forms of power may be at work in a particular interaction. First, there is the understanding of power as the material capacity of a particular actor to shape the actions and payoffs of other actors and thus affect outcomes in its favor.[21] Certainly, such power is manifest in the international arena, as demonstrated by the bribes and threats that sway states toward or against particular actions. However, identifying the powerful actors at any given moment is unlikely to result in a full explanation—even setting aside the above-mentioned difficulty of identifying their *ex ante* interests in the first place. Different actors at different times may have completely divergent understandings of how the same capacities translate into actual possibilities for action. For example, counting gunships is unlikely to be directly helpful in explaining why certain countries are most likely to have their way in issues of money and finance, though there may still be an indirect relationship. Modern gunships now are considerably more powerful than they were in 1902, when the British and German navies sank Venezuelan ships and bombarded Venezuelan ports in part to enforce monetary compensation claims.[22] While they would theoretically be as effective against a poor and underdefended state today, this material capacity is no longer likely to be as useful in enforcing monetary claims, due to intervening shifts in what is considered plausible or acceptable action. This is not to say that power understood in this way does not matter, or that powerful actors are not more capable of shaping outcomes than nonpowerful actors. Rather, physical power controlled by a given actor is an insufficient explanation for any set of outcomes without additional understanding of how it is situated in a particular context.

Relatedly, this definition of power as the material capacity of a specific actor is incomplete. Another more diffuse but no less effective form of power can exist through shared ideological structures or discourses—ways of thinking and talking about things in a particular community (such as the international financial community). If a given set of norms seems reasonable, plausible, and *normal,* then any actions that resonate with these expectations will meet with little resistance or comment. Conversely, practices that counter these expectations will be treated as radical and may be resisted. Over time, actors are more likely to make choices in line with these norms, further strengthening their shaping effect. The discourse and actor practice thus are mutually constitutive and reinforcing, making the norm appear so natural that other alternatives become difficult to comprehend. In this way, the norms themselves have a less visible power that can nonetheless affect outcomes and payoffs as effectively as any set of material capacities.

In this book, I seek to explain the foundations for the norm of sovereign debt continuity, which exerts this more diffuse power in international economic relations. The way in which we think and speak about debt continuity acts as a kind of global soft law, shaping expectations of appropriate action for borrowers and lenders alike and structuring key moments in debt relations today.[23] This is not to say that there is a direct causal link between these broader ideational frameworks and the outcome in any given exchange. However, they enable and promote particular outcomes and make contrary approaches seem implausible. In this book, I seek to understand how the norm of sovereign debt continuity—which is *always* a key factor shaping contemporary debt interactions—gained power in modern finance to the near exclusion of other possible approaches.[24]

Conclusion

The norm of uniform repayment across all sovereign debt, regardless of its provenance, rarely seems puzzling to those working in the international economic field. Despite an absence of any conventional legal rule on the topic, the implicit acceptance of debt repayment and its reputational supports as a stable market principle covers over any lingering questions about the practice. However, the assumptions undergirding the market principle status of the norm are hardly unproblematic. Far from being neutral and historically uniform, sovereign debt practices implicate inherently political ideas and are located in necessarily variable historical contexts. Indeed, such dry inquiries as "is there a reputational effect in sovereign lending" would fail to be sensical without some embedded vision of sovereignty—one of the most contested concepts in international relations today. But the norm of sovereign debt continuity has been so woven into the practice of international finance that it is rarely even questioned, and its controversial political character has all but disappeared in mainstream discussions.

The very solidity of this norm begs the questions of this book: How did sovereign debt continuity rise to such prominence in modern international finance, despite its incongruence with ideas of governmental rule that also spread throughout the globe over the last century? Have approaches emerged that unify ideas of illegitimate debt with working reputational assessments, and under what circumstances? The fact that the continuity norm has been more variable than it first appears invites further study of how the current system developed. Moments existed in the post-World War I era from which alternative frameworks might have developed, and I suggest that both creditor interactions and broader norms of sovereignty shaped the emergence and outcomes of such cases. These two elements also affected the reduced flexibility in sovereign debt and reputation in the decades that followed, and are relevant for thinking about how to structure economic governance in today's unsettled sovereign credit markets. The issue of odious debt offers some guidance as to when we might see this usually hidden question of political legitimacy in international finance rise to the surface, and also helps us perceive more clearly how certain material and ideational structures might support one norm over another in the sovereign debt regime.

In discussing these contrasting approaches in the debt arena, I highlight the political choice inherent in the alternatives: a statist theory of sovereignty necessarily underpinning debt continuity, and non-statist concepts underlying certain allowances for debt discontinuity. While I encourage normatively inclined readers to think through these ethical questions—as I discuss in the final chapter, the policy issues are complex to say the least—the book's primary purpose is not normative argumentation per se. Rather, I contend that the historical contexts in which odious debt might be an issue offer windows into how market structure and broader ideologies privilege one approach over another in any given instance. Studying these cases across time and in relation to one another sheds light on the historical and political foundations for the contemporary norm of sovereign debt continuity and its reputational supports. It also casts empirical doubt on the suggestion that the practice of debt continuity is a historically uniform or inevitable market principle. This uncertainty should disquiet anyone interested in the foundations and ramifications of contemporary international financial practice.

2

Theoretical Underpinnings of Modern Finance

> And from what book of history has it been read or heard . . . that a king paid the debt of another king? And no mortal ever discharged the obligations of his enemies.
>
> —ATA-MALIK JUVAINI, thirteenth-century chronicler of the Mongol Empire, *Genghis Khan: The History of the World Conqueror*

THE NORM of sovereign debt continuity is so regularized in international economic relations today as to become largely unremarkable and taken for granted. We tend to dismiss—or even fail to see—the possibility of alternative approaches to sovereign debt and reputation. This dismissal, it seems, derives at least in part from intellectual path dependence. Without a closer look at the theory or the history, it is easy to suppose that current debt practices are the only ones available and truly workable in a functioning international capital market. And without fully acknowledging the degree to which theories of sovereignty are deeply contested, it is also easy to assume that these practices are ideologically neutral and therefore largely unobjectionable, even if they may lead to troubling consequences.

While most of this book presents a new narrative of how debt continuity overcame other possibilities to become dominant over the last century, this chapter fills out the theoretical background for my argument. I begin by more fully dismantling the assumptions of political neutrality, reputational stability, and creditor uniformity underlying any claim that blanket debt repayment is a baseline rule for a functioning international capital system. I highlight how conceptions of sovereignty act as principal-agent theories in international relations, and emphasize that these necessarily politicized concepts are essential for any workable sovereign debt market. I also demonstrate how the mechanism of reputation is sufficiently flexible to incorporate alternative non-statist approaches, and argue that—far from assuming creditor uniformity—we should *expect* to see some elasticity in creditor behavior given the complex dynamics at play in debt markets.

In the second part of this chapter, I look more closely at what multiple ideas of sovereign legitimacy really would mean if brought into the international debt regime, and where these ideas come from. If we accept that debt mechanisms are indeed more open to non-statist approaches, what is the range of possibilities? I take this opportunity to draw out the ramifications for sovereign debt contracts of four alternative visions of sovereignty with deep roots in political philosophy and international law. Finally, this chapter addresses how to think about case studies in understanding ideas of sovereign legitimacy in debt and reputation, building on the discussion in chapter 1 of how odious debt offers a practical window into these broader questions.

Some readers may already accept the basic openness of market principles and reputational mechanisms in sovereign debt, the possibility of coherent debt practices drawn from divergent theories of sovereignty, and the feasibility of a careful historical study of these questions. This chapter is written especially for those who remain unconvinced.

Addressing the Conventional Approach

There is an easy supposition that the theoretical underpinnings of the contemporary sovereign debt market, including its expectation of continuous debt repayment, are fairly stable. I noted in introducing this book that the seeming inevitability of this baseline draws support from the assumption that the basic rule is politically neutral, supported by a clear reputational mechanism, and obliged by uniform creditor appraisals. But each of these conceptual bulwarks for the statist approach is deeply problematic.

Indispensable Politics: Sovereignty as the Missing Agency Question

By necessity, the controversial and highly politicized concept of "sovereignty"—which carries with it overtones of legitimate, or at least internationally acknowledged, rule—stands at the center of any discussion of the sovereign debt regime. As I noted in the introductory chapter, a particular political vision of sovereignty is *already* deeply embedded in the lending regime. The strict rule of repayment depends upon a distinctly statist concept of sovereignty, which assumes sovereign continuity within the same territory and insists on the irrelevance of changes in internal rule for sovereign identity. Indeed, there is no way for sovereign lending to exist without the unspoken adoption of one or another idea of sovereignty. To the extent that a sovereign debt contract exists at all, enforceable against future generations of a state's people, it must at least implicitly rest on an underlying theory of the relationship between that country's government and its people. The fact that we choose to leave the nature of that relationship entirely unstudied does nothing to diminish its importance.

Perhaps unsurprisingly, financial writers tend to take a dim view of any impulse to define sovereignty—and therefore implicitly sovereign legitimacy—in the arena of international debt. The *Financial Times* preferred a more "pragmatic" approach for post-2003 Iraq, arguing that "instead of embarking on a theological discussion of whether the debt contracted by Saddam Hussein is legitimate, creditors should swiftly reduce the country's debt-service obligations to manageable proportions."[1] The dominance of this ostensibly matter-of-fact approach has helped to address particular instances of debt restructuring, but leaves embarrassingly undertheorized very basic questions. Who actually constitutes the ultimate principal in a sovereign contract? If it is the people, what type of governmental authorization is needed to make such a contract binding? The seemingly abstract discussion of legitimacy in fact fills an important and surprising gap in our practical understanding of sovereign debt contracts. Whereas a relatively clear theory of agency and authority is central to the modern practice of domestic contract law, the dominance of short-term pragmatism has left us with long-term practical confusion in the international realm.

It would help if we recognized that different theories of sovereignty in fact act as alternative theories of agency in the international context, whether or not they are expressly recognized as such. Any valid domestic contract made on behalf of another entity is at least implicitly (and frequently explicitly) grounded in a theory of agency. And any theory of agency identifies the nature of the relationship between the agent—who acts or enters into the contract—and the principal, the entity against whom the contract is ultimately enforced. Agency theory specifies the conditions under which a principal will be forced to perform on the contract made by the agent. Usually the agent must be retained or acknowledged by the principal for its actions to be respected. For example, if a Chief Financial Officer (the agent) enters a contract on behalf of a company and ultimately the underlying shareholders (the principal), then the company is likely to be liable for that contract. However, any so-called contract made by a deranged junior employee who has taken the company hostage is unlikely to be respected—unless the resurrected company later has the opportunity to affirm the contract—because there is no legitimate agency relationship in this scenario. This assumption of consent and ultimate ownership also underpins the expectation that the principal (the shareholders, collectively) will be the residual claimant in any financial restructuring or bankruptcy proceeding, receiving only the leftovers once bona fide creditors have been satisfied.

If the relative simplicity of this distinction between legitimate and illegitimate domestic contracts falls apart when we move to the realm of transnational sovereign debt, it is in part due to the lack of a clear theory of agency in the international arena. The confusion would be as bewildering in domestic contract law if we insisted upon the validity of all debt contracts undertaken on behalf of "The Coca-Cola Company" without specifying who could act on behalf of Coca-Cola and under what conditions. Just as we assume a definition of who counts as "Coca-Cola" to distinguish between legitimate and illegitimate Coca-Cola debt contracts, we would need a definition of who counts as "Ruritania"—that fictional country of law school exams—to distinguish between legitimate and illegitimate sovereign contracts signed in Ruritania's name. In short, what is missing from the current discussion of sovereign debt is a clear idea of who counts as "sovereign" in a sovereign contract.

This is where the seemingly abstract discussion of politics and sovereignty becomes immediate and concrete. Different theories of sovereignty effectively constitute different theories of agency in the international realm, with divergent ramifications for whether or not a sovereign contract is legitimately enforceable. A theory of agency specifies the nature of the relationship between the agent—who acts or enters into the contract—and the principal, against whom the contract is ultimately enforced. Similarly, a theory of sovereignty specifies the nature of the relationship between the sovereign government—the agent who acts or enters into a contract—and the principal, the people against whom the contract is ultimately enforced. Just as different theories of agency will result in differential enforcement of domestic contract obligations, different conceptions of sovereignty should result in differential treatment of sovereign contract obligations. Or from an alternative perspective, calling any given sovereign contract "legitimate" necessarily implies and reinforces a particular idea of sovereignty, and thus validates the mode of rule upon which it rests.[2]

In short, the current system of sovereign lending already, and necessarily, rests on a concept of sovereign legitimacy that takes the role played by agency theory in domestic contract law. It serves as an unacknowledged support in the otherwise somewhat mysterious act of complex, agent-based sovereign contract-making—that is, the conversion of a fleeting promise by an individual or group of individuals into a permanent obligation for an entire population. Failing to discuss the concept of sovereignty underlying sovereign debt contracts does nothing to eliminate this political choice entrenched at the very core of international economic law. It only leaves the system's analytical foundations unclear and undertheorized. Even if particular creditors do not deliberately choose one political theory over another, they participate in a collective practice that depends upon and reinforces a profoundly political judgment.

The Indeterminacy of Sovereign Reputation

Turning to reputation or creditworthiness does not escape from this foundational puzzle. An implicit determination of legitimate sovereignty is just as embedded in any reputational assessment as it is in the appraisal of a sovereign debt contract's basic validity. And although an insistence on the strict rule of repayment seems to assume that only one analytical angle is possible, in fact the reputational mechanism is flexible enough to incorporate a range of statist or non-statist approaches, including approaches that would allow for debt cancellation. Given the variety and different placement of creditors, it would be surprising for only a single sovereign reputational assessment to emerge.

The Positional Aspect in Reputation

This is not to reject the importance of reputation itself. Indeed, reputation, broadly understood, has been put forward as a key driver for compliance with international legal agreements by multiple scholars.[3] The specific question of why states comply with international debt contracts has been taken up most extensively in economics and international political economy, where arguments exist between those who contend that debt repayment results from a fear of direct retaliation, and those who argue that it follows from concerns about reputation.[4] While an extensive literature review is not necessary, the evidentiary support for a general reputational effect in the debt arena does seem strong. Michael Tomz's in-depth analysis, perhaps the leading account of sovereign reputation in international political economy, highlights the centrality of reputational factors in ensuring continued cooperation between creditors and sovereign borrowers. Tomz argues that creditors consider both payment record and the situational context of repayment to develop beliefs about a borrower's type—that is, whether it is a "lemon" that will default without justification, a "fair-weather" that will repay only when times are good, or a "stalwart" that repays in good times and bad. This belief on the part of international investors in turn constitutes the borrower's reputation, which guides creditors' risk assessments and lending decisions.[5]

Tomz provides a compelling argument for the centrality of sovereign reputation generally, and even explicitly builds political or governmental change into the model. He highlights that the inevitability of governmental change makes reputations in sovereign debt "fragile," in that investors will recognize that a new government may have a different policy preference than previous governments. They may therefore downgrade or upgrade a state's reputation as a whole, depending on the actions of the new governmental actor.[6] In this presentation of political change and reputation, however, Tomz accepts the basic statist understanding of reputation as continuous across (though also changeable by) different regimes. He does not consider the possibility that a new regime might constitute a new sovereign altogether, in need of a fully separate reputational assessment. As such, he neglects the even deeper way in which the content of reputation depends on broader contexts that change across time, place, and creditor. He falls more neatly in line with the suggestion that the rule of repayment, as the core of debtor cooperation in the sovereign debt regime, serves as something akin to a uniform and ahistorical market principle due to the mechanism of reputation. Tomz thus overlooks the ways in which the practice of assessing sovereign creditworthiness may well be contingent upon the assessor's position and ideological inclinations.

But as Ashok Vir Bhatia points out, the limited predictability of sovereign economic and political behavior, as well as the absence of widespread robust statistical testing, "leave[s] the task of credit ratings assessments poorly suited to formulaic straightjackets."[7] Market research into sovereign creditworthiness necessarily blends objective analysis with subjective debate. Even in theoretical studies from economics and finance, there have been questions as to the degree to which reputation-formation and perceptions of credibility are fully uniform and "rational" in the traditional sense. Robert Frank, for example, has highlighted how emotion plays a key role in the formation of reputation, apart from any objective or material determinants.[8] James Forder points out that definitions and perceptions of “credibility” are not a given across different professional groups.[9] Academic economists and central bankers, for example, have very different views on the importance and definitions of “credibility,” and Forder contends that this has ramifications for the ways in which credibility as a concept can be abstracted for the purposes of both academic studies and policy proposals. Jonathan Mercer draws from the insights of psychological theory to suggest that reputation-formation fundamentally links to a human tendency to attribute only negative or undesirable outcomes to another actor’s character or reputation. Desirable positive outcomes, on the other hand, become associated with the other actor’s situational context and thus a “good reputation” can never really develop.[10] And Rachel Brewster considers the limits of existing reputational models in international law, disaggregating and temporalizing both the “state” and the external audience for state actions in ways that parallel several of the conceptual claims in this book. In particular, she emphasizes the shifting nature of how domestic actors value the reputation of the state that they represent, and also focuses on the degree to which external actors account for governmental and issue variability in ascribing reputational consequences to state actions.[11]

These studies of the foundations of reputation question whether it is constant and objective in the sense assumed by much economic, political, and legal analysis, and suggest that we should be looking for something *other* than uniformity in creditor action. It is not generally agreed upon that reputation is a stable factor with contours that do not vary across time, context, or creditor. Even accepting creditors’ basic profit orientations, then, more attention should be paid to their relative economic positions and larger social contexts. While creditworthiness may be uniformly important, its particular *content* vis-à-vis principles of sovereign continuity or odious debt will still be embedded in a historically contingent economic and ideational framework.

The Politics in Reputational Judgment

Privileging a conceptual framework that assumes plurality rather than homogeneity encourages a closer look at how different approaches to legitimate sovereignty and debt continuity would lead to conflicting reputational assessments. Just as any claim about the validity of sovereign debt links to a claim of who constitutes the “sovereign” in sovereign borrowing, any claim about sovereign reputation implicitly rests on an underlying political and legal theory. In particular, while a state could never develop a *positive* reputation after a repudiation on the basis of an odious debt principle, it is an open question as to whether a *negative* reputation should necessarily result. A creditor or other international economic actor could reasonably understand that the willingness of a new regime to repay a loan depends on the degree to which its population benefited from or authorized the loan.[12] If a previous obligation was used to oppress the population or was entered into in order to facilitate corruption, then a subsequent regime's willingness to repay this debt may not have much bearing on its readiness to pay legitimately contracted or publicly beneficial loans in the future.

Any acceptance of an odious debt idea, which might highlight the importance of authorization and/or public benefit, thus suggests the presence or plausibility of non-statist approaches in sovereign reputational analyses. If such an argument were made and accepted by a creditor after a regime change, the incoming regime would be treated not as a "lemon," in Tomz's typology, but rather as a new or unseasoned borrower. Conversely, a statist concept of sovereignty, supportive of the continuity norm, would not distinguish between legitimate and illegitimate debt in assessing a new regime's repayment record as part of a creditworthiness analysis. In fact, a strictly statist approach would be *most* hostile to repudiation on the basis of something like odious debt, given that there is no acceptable economic reason for the default.[13] Shifting perspectives somewhat, the degree to which an implicit or explicit reputational assessment accepts or rejects an odious debt idea operationalizes the concept of sovereign legitimacy underlying reputation for any given creditor. The reputational interpretation and financial treatment of a borrower as new/unseasoned rather than as a lemon indicates the acceptance of a more open approach to sovereignty and debt continuity on the part of that creditor, and an alternative politics in this area of international finance.

Thus, while I agree that "reputation matters," such an assertion on its own is indeterminate for a range of politically, legally, and financially pressing questions, given that the meaning of reputation itself is more open than usually acknowledged. It also fails to recognize the historical possibility that creditors may implicitly accept a non-statist perspective on debt continuity—that is, the prospect that they would make reputational assessments that do *not* insist on debt continuity in all cases, while still considering creditworthiness analyses an important tool for capital markets. While many discussions of sovereign debt thus implicitly set aside (or exogenize) the actual theoretical content of sovereign reputation, I begin by endogenizing the idea of sovereign reputation itself and so locating it within broader theoretical and historical contexts. Certainly, the fact that reputation aligns equally well with statist and non-statist approaches only makes more puzzling why the norm of debt continuity became prevalent in modern international finance.

Further Unpacking Creditor Interest

Related to the conjecture that there exists a uniform idea of reputation and a market principle of consistent repayment is the assumption of a unified "creditor interest." I noted in the introductory chapter that too quick a recourse to "interest" and "power" tends to result in overly simplistic and ultimately indeterminate explanations. Interest depends upon particular circumstances and identities that may shift over time, and power has multiple facets, including as the often less-recognized power exerted by norms themselves. Still, as a general matter, capital market lenders might be expected to have a strong preference for maintaining sovereign debt continuity, given the sizable distributional consequences at stake. What I call a strictly statist account of sovereignty, in which the *fact* of state control is sufficient regardless of the internal mechanism of control, supports the repayment of debt despite concerns about internal governmental illegitimacy. Disregarding any expectation of internal rule of law, legitimate borrowing purpose, or democratic legitimacy as a factor in lending and repayment would allow occasional windfalls to creditors. In asking why a statist norm of repayment has become so regularized as to appear inevitable, one immediate possibility therefore rests with the interest and significant persuasive capacities of previous generations of creditors.

Such a hypothesis, while initially plausible, still offers an insufficiently nuanced view of creditor interests. In particular, this "creditor power" hypothesis fails to recognize that while creditors may at times have shared interpretations of interest and threat, tending toward debt continuity, such consolidation is not inevitable. At certain historical moments, creditors may well identify other lenders as primary threats, and look more favorably upon potential borrowers. In such situations, sovereign lending practices are likely to be more receptive to sovereign debtor concerns. To add nuance to the "creditor interest" argument, I suggest that the degree to which creditor interactions are competitive or consolidated—rather than creditor power in general—may affect the degree to which the rule of continuous debt repayment is stable.

We often speak of "creditors" as if they were a single roving pack, and to some degree this rings true. Leaving aside public creditors for a moment, most creditors have analogous goals—to recoup investment expenses and make productive use of their capital—and are generally privy to the same types of information and analysis. Frequently, creditors will respond similarly to similar situations even in the absence of any collusion. However, it would be a mistake to ignore the fact that they—like all actors—are embedded in a collective world and are therefore both social and strategic. Their interpretations of default or repudiation should thus reflect both their general social proclivities and their strategic positions vis-à-vis other creditors. As such, I disagree with Tomz and others who may argue that, in all instances, "If a government defaults without adequate justification, it acquires a lemonlike reputation not only in the eyes of current investors, but also in the estimation of other individuals and institutions around the world."[14] Or more precisely, I argue that investors and institutions can differ significantly on what counts as "adequate justification" in ways that have not been identified previously.

In fact, there is little reason to expect that creditor interests in the arena of sovereign debt will be entirely uniform, given that they respond to two principal sources of risk. First, creditors as a whole face the threat of default and repudiation, and in this sense have a shared perspective vis-à-vis sovereign debtors. Debtors, however, are not the only, or even the most pressing, source of risk for creditors. Other lenders constitute a second threat, as a healthy credit market is driven partially by competition between suppliers of credit for the same borrowing client. The prospect of losing clients to competitors thus represents a second central problem for creditors.[15]

How might this framework interact with questions of sovereign legitimacy to strengthen or weaken the norm of repayment in international debt? As long as major creditors identify nonpayment of loans as the central threat in the sovereign debt market, then a hegemonic insistence on the payment of *all* debt, including potentially "odious" debt, makes sense.[16] This effectively adopts and strengthens the purely statist political framework of sovereignty that coincides with such a practice. This creditor approach should be more likely to emerge when the market is consolidated, that is, when the underlying material and social structures of creditor interactions encourage more unified interests and risk interpretations. In this case, creditors consider their own fate to be intertwined with that of their fellow creditors, and the perceived threat of creditor competition and client poaching recedes while that of sovereign state default becomes more dominant. As such, they will be more hostile toward debtors who refuse to pay previous loans and less solicitous of the views of potential borrowers. Borrowers facing a limited set of intermediaries for capital will have little recourse but to accept the terms set by these creditors working together. In a consolidated context in which the interest of one is the interest of all, creditors will have little incentive to accept claims based on a non-statist view of sovereignty. Even if one creditor considered the odious debt argument valid, its relationship with other creditors, including the discontented debt holder, could prevent its acceptance of a more flexible approach. Although it is difficult to place a monetary value on the exclusive adoption of a concept, the ascendance of a statist political theory in the sovereign debt regime—with its occasional windfalls to creditors—effectively grants a conceptual monopoly as financially valuable as any other monopoly. Over time, this conceptual monopoly can gain the appearance of naturalness or inevitability, including to creditors themselves, achieving the stable status of a market principle. Such a status would eventually make alternative approaches seem impracticable and thus shape the underlying theoretical context of sovereign lending in the long run.[17]

However, this naturalization is hardly inevitable. We can imagine that in a market with more competitive creditor interactions, in which creditors view not only the sovereign debtor but also fellow creditors as risks, the preferred approach should not be so uniform. In this case, creditors may be more anxious to protect their links to existing clients and to lure new clients away from potential competitors. While the holder of a particular debt instrument will prefer a strictly statist repayment framework as to that instrument, other creditors hoping to attract the same borrower may be more flexible. A new creditor, in the hopes of displacing a competitor, may be indifferent as to whether a prospective client pays that competitor's arguably illegitimate loan obligation. This underlying desire could reasonably lead to a weaker insistence on the norm of sovereign continuity and a more flexible perspective on who counts as the "sovereign" in sovereign debt. So long as a potential borrower looks like a good credit risk overall, a new creditor—considering the new regime an unseasoned borrower rather than a lemon—may be willing to extend credit even after repudiation.[18] Thus, a more competitive credit market should be more lenient toward sovereign governments that repudiate arguably illegitimate debt.

How would this dynamic play out in practice? Creditors do incorporate the possibility of political instability and regime change when assessing country risk. In this context, lenders may pay attention to sovereign legitimacy if they believe that the debt contracts of less oppressive regimes will result in higher rates of repayment even in the absence of accepted odious debt ideas. However, creditors as purely financial actors have no foundational need for a discussion of whether sovereign borrowers are internally legitimate. Under the statist background norms of the current financial system, lenders are entitled to the repayment of all debt. Therefore, they are unlikely to consider independently any explicit questions of sovereign legitimacy, at least to the extent that they are principally profit-motivated. Non-statist alternatives in the debt regime are likely to remain in the background until pressed by a sovereign government, either upon repudiation or when seeking to borrow after a repudiation or default. As such, a creditor's receptiveness to borrower government claims may well mediate the relationship between ideas of sovereign legitimacy, market competition, and practices of debt continuity.

Starting from the premise of uncertain and potentially conflicting creditor interest, the contingent features of any given historical moment—or any given country case—should mediate the degree to which creditor interactions are competitive and thus receptive to alternative approaches presented by borrowers. For example, as I highlight in the Soviet Union case in chapter 3, broader economic problems and a difficult market might heighten the belief that competitors (rather than valuable borrowers) constitute a principal risk. Similarly, the borrowing capacity or market power of a potential sovereign borrower can alter this calculus, deepening rifts between creditors in a given case. Geopolitical struggles often provide the backdrop for overseas lending, and competition or cooperation in the political arena could also condition what is considered risky or logical in the economic realm. By contrast, expanded social and financial links between creditors, which could emerge through geographical integration and creditor cooperation in syndicated bank loans, for example, can enhance the degree of consolidation at any given moment. As a historical matter, each of these dynamics has been relevant to the construction of sovereign reputation over the last century.

In short, although creditors *may* proceed jointly with regard to a particular debt event, this is not always the case. Nor is it necessarily the case that creditors should deliberately think and act together to strengthen a norm of debt continuity across many decades. Rather, they are more likely to take steps that serve particular short-term purposes, which when aggregated result in overall patterns of creditor interaction that can help to either strengthen or diminish statist debt practices over time. And the debt continuity norm, once emerged, may in turn affect creditors' interpretations of their interests in a cyclical manner. Similarly, if a noncontinuity norm were to become dominant, that would also shape creditors' assessments of their own and other creditors' interests and likely actions. Thus, questioning the idea of a monolithic creditor interest in sovereign lending only makes more apparent how the sovereign debt regime's repayment rule, reputational underpinnings, and implicitly statist political ideology are more contingent than they initially appear. Two alternative logics exist for creditor preferences, depending on the nature of their interactions and interpretations of risk. The dominance of one or another logic remains a question of historical investigation rather than theoretical presupposition.

The Multiple Roles of Public Creditors

Of course, this analysis may change somewhat for public creditors, who have distinctive goals and concerns stemming from their more explicit dual role as both financial players and broader norm-propagating actors. Although international creditors are frequently discussed as a single category, public creditors' particular motivations and organizational structures can affect their lending purposes and interactions.[19] While the nuances of this difference come through more clearly in my historical narrative, three distinctive features bear upon the debt continuity norm and should be applicable to other issues of international economic governance as well: Public creditors are generally less focused on competition, more explicitly public-minded, and more concerned with the "power of the purse" than with profit. While these features are not equally relevant to all public creditors, highlighting them in advance helps to identify the pressures at work over the last century.

One of the central characteristics of a public as opposed to a private creditor is its different approach to competition, and especially its lower competitiveness relative to market actors. In particular, the publicness of these lenders obviates the way that market competition, absent any contrary consolidative pressures, encourages efforts to solicit and retain borrowers. The classic public actor is established not out of a profit motive but rather to instantiate some broader goal or idea of the public good.[20] As such, public lending results in a different relationship with debtors and with the sovereign credit market as a whole. With regard to their potential borrowers, these creditors' ideological perspective and relative lack of concern with profit will make them *less* inclined to court potential borrowers by giving greater credence to their independent viewpoints and claims. They may be less willing to think seriously about the degree to which reluctance to make payments on previous, arguably illegitimate debt actually predicts the likelihood that comparatively legitimate loans will be repaid in the future. Although public creditors (as with most explicitly political actors) should want to keep borrowing countries within their policy circle, they may be less likely to moderate their own outlook or ideological position as a result of borrower pressure. In short, the legitimacy claims and other substantive arguments of a borrower could, paradoxically, fall on less receptive ears.

In addition to this basic motivational difference, public creditors are rarely part of a very large market of similar actors, with similar goals, providing similar services. Because of their distinct and sometimes highly individualized goals in lending, any competition between public creditors that does exist will take on a different cast. Public lenders (and public actors more generally) will be less concerned with the actions of other creditors as competitors for the same borrowers, although they may view such creditors as a threat to their own policies or goals and challenge them on this front.[21] As I discuss in the following chapter, this was the case to an important degree in successful US governmental efforts to prevent American banks from financing the Soviet Union after its debt repudiation at the end of World War I. The normative position taken by public creditors may be enhanced and eventually naturalized if there is little competition from alternative, private sources of funding—as was the case with World Bank lending in post-World War II international finance. Such oligopoly will make public creditors even less open to borrower claims, and thus can further close off the potential for borrowers' assertions about sovereign legitimacy to make any headway.

Whereas general publicness tends to minimize the way in which competition can make creditors more open to borrower claims, the more overt public-mindedness of such actors cuts in both directions. Public creditors have a unique dual role in international lending, as both participants in the broader credit market and as norm-generating and norm-enforcing actors in their own right. This explicitly social outlook may involve an *ex ante* commitment to ensuring that public resources benefit a state's underlying population, or to promoting the rule of law or more democratic forms of sovereignty. In this case, a public creditor's position as a noncompetitive and even monopolistic or oligopolistic actor would be overshadowed by a deeper commitment to particular political values. This is the case for certain contemporary creditor countries, such as Norway, which have taken the lead in propagating odious debt ideas, as I note in chapter 7. On the other hand, a commitment to imperial projects or to an ideologically based economic policy vision (such as communism or capitalism) could undermine attentiveness to questions of legitimate sovereign statehood, as I discuss with regard to the mid-twentieth century and the Cold War in chapter 5. In short, rather than understanding these actors as creditors whose outlook is somewhat modified by their public characteristics, in some cases it may make sense to focus on them first as public actors whose credit activities serve larger public goals.

Finally, the power of the purse, which holds public creditors accountable to their funders, may well shape their ultimate viewpoints.[22] This power is likely to be especially strong because the interests of borrowers are less of a countervailing force. Whereas a private creditor balances the demands of its own investors (generally for higher rates of return) with those of its borrower clients,[23] public creditors may be less concerned with the independent views of debtors due to the noncompetitive dynamic noted above. While this funding element can reinforce the public-mindedness just discussed—after all, those who launch and fund a public creditor presumably do so for a social purpose—this effect is hardly absolute or permanent. Although a public creditor's founding members formulate its initial goals, they may also establish a funding structure that renders the creditor dependent on external actors whose interests are in tension with those original goals.[24] As I discuss in chapter 5, this analytical framework helps to make sense of why the early World Bank ultimately adopted a strictly statist approach for its own lending and creditworthiness analyses.

In short, to speak of creditors as a single group in sovereign lending is not only historically problematic but also theoretically untenable. Although greater uniformity may exist at particular moments, the competitive pressures on private creditors and the unique characteristics of public creditors mean that these moments should provoke additional investigation rather than simply solidify preexisting assumptions. Neither creditor uniformity, nor the mechanism of creditworthiness, nor a claim of political neutrality is sufficient explanation for the market principle expectation of continuous debt repayment. This leaves us with unanswered questions as to how sovereign debt and reputation can be understood as a theoretical matter, and why it has been framed in particularly narrow ways as a historical matter.

Alternative Sovereignties and their Ramifications

If the norm of debt continuity cannot be accepted as a neutral market principle with which all reasonable people must agree, nor does it emerge from the idea of rulership itself. In the current international system, the mechanisms of sovereign rule are tied to, and perhaps hidden by, the trappings of statehood. But imagine a world of personalistic rule, in which "sovereigns" exist not as states but rather as human beings with definite, if unpredictable, mortality. A conquering sovereign in this world might take over a rival's territory, neutralize his descendants, destroy his monuments, and otherwise banish memories of the previous rule. If the creditors of the deposed ruler approached the new sovereign requesting payment of the previous regime's debt, they might be as likely to leave without their heads as with their principal plus interest.

While this hypothetical is somewhat extreme, it is far from a fantasy, as versions of such personalistic dominion have existed throughout human history. An incident recorded by thirteenth century Persian chronicler and Mongol bureaucrat Ata-Malik Juvaini highlights how expectations of *noncontinuity* might seem reasonable under these alternative forms of rule. When Mengü (grandson of Genghis) was elected Great Khan by an assembly of Mongol princes in 1251, the debts of his predecessor and first cousin Güyük were presumptively erased, notwithstanding the family connection and the relatively orderly nature of the succession.[25] A discussion of appropriate debt practices resulted from an appeal by certain of Güyük's creditors, whose "cause was lost" but who nonetheless approached the new ruler, "partly hoping for his justice and partly despairing." Juvaini notes that "all the functionaries of Court and Pillars of State were of [the] opinion that there was no obligation to pay the amount due . . . and that no mortal would have cause to object." After all, "from what book of history has it been read or heard from reciters that a king paid the debt of another king? And no mortal ever discharged the obligations of his enemies." That Mengü ultimately did compensate the creditors for the debts of his predecessor was considered—far from the creditors' right—evidence of the new Great Khan's generosity and noble character.[26]

The financial context of the Mongol era differs radically enough from our own that few direct lessons can be drawn from this anecdote. But it is telling that economic advisors of civilizations past might have scorned the expectation that a new government—particularly one antagonistic to the previous regime—should make good on all its predecessor's debt. Episodes in later centuries, several of which I discuss at length in this book, suggest continuing distaste for discharging the obligations of enemies. The restored Mexican republic repudiated the debts of the French-supported Hapsburg emperor Maximilian in 1867, "on the ground that they were contracted for the purpose of combating the constitutional government."[27] In 1868, the fourteenth amendment of the US Constitution voided outstanding civil war debts "incurred in aid of insurrection or rebellion against the United States."[28] The Costa Rican and Soviet repudiations discussed in chapters 3 and 4 similarly reject the idea of paying the debts of another. These episodes highlight how, as the meaning of "sovereign" becomes less personalistic and more associated with abstract statehood, the idea that debt can permanently attach to a governmental entity becomes plausible. But they also demonstrate that pressure can build to authenticate the legitimate character of the borrowing regime in question.

At the center of the debt continuity norm, then, is neither market discipline, nor the idea of governmental rule per se, but rather the ephemeral and multifarious idea of sovereignty itself. Although financial writers might use the term "theological" dismissively in referring to contemporary discussions of debt legitimacy, in many ways the term is fitting.[29] Political theorists have pointed out that underlying the modern structure of international relations is a secularized theology or metatheory of the sovereign state.[30] Just as theology deals with the nature of god and its relationship to man, this secularized theology of the sovereign state specifies the nature of the state and its relationship to the people. Principal among these theological exports has been the idea of a unitary and omnipotent god, transformed into the absolutist or "command" theory of a unitary and omnipotent sovereign state. But, as the following discussion makes clear, this statist politics of sovereignty, a version of which underlies the doctrine of sovereign continuity, is not the only possible approach to sovereignty or sovereign contracting. Indeed, the Western philosophical tradition grounding current international relations provides a range of competing ideas based in popular, rule-of-law, and outcome-oriented theories. And these alternatives, all of which have found defenders through the last century, may well fit more comfortably with our current sensibilities.

Who Can Sign? The Statist Roots of Contemporary Debt Contracts

Where does the statist idea of sovereignty embedded in current lending norms come from, and how deep does it go? In this absolutist conception, the sovereign is simply the juridical body that has ultimate control and authority over a given people and territory, and that issues commands within that territory in the form of general laws and sui generis orders. This sovereign is functionally similar and juridically equal to other sovereigns, and the structure and legitimacy of its internal constitution, culture, and stage of development are conceptually irrelevant to its external relations. This framework conceives of the sovereign state as a secularized deity—the supreme power within its realm, subject to no law or higher authority and equal only to other states. It might also be understood as the latter-day incarnation of an absolutist, divine, or militarist conception of rulership, updated to fit modern definitions of states as territorially bounded.[31]

In Western political theory, Jean Bodin provided perhaps the first of these explicit accounts, by defining sovereignty in the sixteenth century as "the highest power of command" and "the absolute and perpetual power of a commonwealth."[32] This tradition was carried forward by Thomas Hobbes and Benedict de Spinoza, both of whom considered the sovereign as constituting the supreme law-making authority, free from limitation on its actions.[33] In this view, it does not matter how the governmental entity claiming sovereign status gains control. It may do so by liberal democratic means, by other constitutional means, or by force alone—the strictly statist requirements for sovereign action pay little attention. As Bodin makes explicit, "If [power is taken] by force, [the government] is called a tyranny. Yet the tyrant is nonetheless a sovereign, just as the violent possession of a robber is true and natural possession even if against the law, and those who had it previously are dispossessed."[34] Although Hobbes distinguished between sovereignty by force and sovereignty by voluntary institution, he insisted that "the rights and consequences of sovereignty are the same in both."[35]

This tradition carries into legal and constitutional theory as well, as represented by the classical positivism of John Austin, who understood law as the command of the sovereign backed by force.[36] And in his formulation of positivist international law in 1912, Lassa Oppenheim similarly rejected the moral foundations and judgments implied by natural law accounts.[37] In denying the relevance of internal culture, religion, or political form, he sought to organize international law on the basis of sovereign equality and state consent. Or in the preferred metaphor of international relations theory, this account of sovereignty conceives of the state as a "unitary black box" whose internal machinations are irrelevant to its foreign interactions.[38]

This principle of recognizing sovereign governments on the basis of command or effective control was accepted as a central principle of modern international law by early members of the Permanent Court of International Justice. For example, J. B. Moore, a prominent American jurist and member of the Court, wrote in the early 1900s,

> The origin and organization of government are questions generally of internal discussion and decision. Foreign powers deal with the existing *de facto* government, when sufficiently established to give reasonable assurance of its permanence, and of the acquiescence of those who constitute the

> state in its ability to maintain itself, and discharge its internal duties and its external obligations.[39]

This essential commitment to disregarding internal differences and the possibility of internal coercion is enshrined in the basic legal principles of twentieth-century international relations—equal sovereignty and the doctrine of nonintervention, as highlighted in Article 2 of the UN charter. International or "external" sovereignty in this statist approach is thus based on effective control and recognition by the community of states. As a consequence, it pays little attention to the potential internal dimensions of sovereignty.[40] The central contours of this statist framework have remained fairly stable into the turn of this century.[41]

How would this paradigm translate into a theory of agency or authority to enter into contracts? The answer here is relatively straightforward: whoever exercises control may sign the sovereign contract. And because the state's population is not considered the "principal" of the state in any true sense, no real agency problem exists. The core relationship between the people and the government is not characterized as one of principal and agent but rather, in the language of John Austin, as one of "sovereignty and subjection."[42] The people under this theory of sovereignty are ultimately "subjects" of the state, who are subject to the commands and obligations of whichever government successfully controls them. This political theory should look familiar to those working in international capital markets today: regimes that rule by force, exploit local communities, and violate their own laws may still enter into international agreements under statist norms.

Who Can Repudiate? The Rise of the Eternal Sovereign

So, we know that even widely disparaged governments may enter into internationally binding obligations according to statist political thought. But the second key question is whether a successor regime *must* be bound by that prior regime's actions under this approach or whether, in the alternative, the successor still has a presumed right to disclaim the debt. There are two opposing answers to this question even within the statist framework, which in the Western tradition corresponds to a split between late medieval thought and the high modernism of the Scientific Revolution.

The first approach, associated with late medieval political theory, insists on the eternal nature of the state apart from any changes in actual rulership, and thus considers sovereignty to live forever. In the early and high Middle Ages, the Christian conceptual universe had been divided into the eternal/transcendental and the temporal/profane realms. While a ruler derived legitimacy from the eternal divine, he himself was a temporal being. With the shift away from this dualist aspect of the late Middle Ages, however, space emerged for an intermediate arena in which earthly beings—such as states—might yet have eternal duration. Thus, previewing more contemporary jurists and financial actors, the late medieval legal theorist Baldus di Ubaldi argued, "A realm contains not only material territory but also the peoples of the realm . . . And the totality or commonweal of the realm does not die, because a commonweal continues to exist even after the kings have been driven away. For the commonweal cannot die . . . it lives forever."[43] Although Bodin is rightly cited as an early modern political theorist for insisting that sovereignty may be claimed by undisguised force rather than through divine blessing, on the question of sovereign continuity he hearkens back to this earlier age. Bodin considered both sovereignty and the status of the "sovereign" to be perpetual, transferring to whoever gains effective control of a state's territory.[44] Jens Bartelson emphasizes that this combination of state continuity with ruler discontinuity is an essential aspect of what he calls the "proto-sovereignty" of the late medieval era. "The body politic could be accounted for as something ontologically separate from the existence of the ruler within it, yet as something continuous, transcending the life of the ruler in time and space." He emphasizes the importance of this move, in which "we witness the first steps towards a theory of inalienability, which implies a set of rights well separated from those of the individual king."[45] Along with these inalienable rights of the eternal state, it would seem, can come inalienable obligations. In this premodern framework of the eternal state, sovereign obligations might remain even in the case of major regime change. Although medieval scholars intended this vision of sovereignty to be secular, to many contemporary political theorists it retains "a whiff of incense from another world."[46]

Despite this particular historicity and provenance, the doctrine of sovereign continuity is very much alive in practice today. Echoing Baldus in the fourteenth century, J. B. Moore in the early twentieth clearly links the status of sovereign to the theory of sovereign sempiternity, and then to the continuity of contractual obligations:

> Changes in the government or the internal policy of a state do not as a rule affect its position in international law. . . . though the government changes, the nation remains, with rights and obligations unimpaired. . . . The principle of the continuity of states has important results. The state is bound by engagements entered into by governments that have ceased to exist; the restored government is generally liable for the acts of the usurper.[47]

The *Financial Times* continues the trend into the twenty-first century in its insistence—without irony—that we avoid "theological" discussion and simply accept the eternal nature of states for the purposes of enforcing debt obligations. At least in contemporary international financial circles, the innovation of late medieval jurists lives on.

Notwithstanding its remarkable resilience, the theoretical innovation of unbroken sovereignty did not stand alone in the early modern tradition of Western political thought. The opposing approach, associated with Hobbes and the high modernism of the Scientific Revolution, insists more explicitly on the sovereign's absolute right to do as it pleases, which would include contract repudiation. Although he shared Bodin's indifference to competing forms of internal rule and the mechanism of gaining sovereign power, Hobbes very explicitly considered his work to stand upon a more materialist conception of the universe. Drawing inspiration from the revolution taking place in the natural sciences in mid-seventeenth-century Europe—and keenly aware of the ravages wrought by the religiously inspired Thirty Years War—Hobbes rejected both religious foundations and any Platonic idea of eternal essences in formulating his political vision. He insisted instead that "every part of the universe is body, and that which is not body is no part of the universe."[48]

Perhaps unsurprisingly, he took a fairly materialist view of sovereign existence and power, including in times of succession. Unlike the late medievalists and Bodin, Hobbes did not consider that sovereignty could exist forever, ungrounded from actual rulership. He was especially concerned with clarity in sovereign succession *precisely* because without this the choice would be uncertain, and "then is the commonwealth dissolved" and "the multitude [left] without any sovereign at all."[49] Hobbes joined this materialism with an insistence on the sovereign's indivisible right to determine the means necessary to promote the interests of the commonwealth and its subjects. Thus sovereign power is absolute, "as great as possibly men can be imagined to make it."[50] This is not to say that the sovereign cannot constrain its own actions and encourage stable interaction by promulgating laws and binding itself through contracts. Although Hobbes was primarily concerned with the prospect of civil disorder and internal constraint, this ability to bind would presumably extend to the realm of external contracts as well. However, these constraints would always be contingent and subject to repudiation on the basis of sovereign status and power alone.[51]

While Hobbes is rightly considered foundational to modern thinking about sovereign states, an adoption of his strictly materialist approach in sovereign lending would entail a radical departure from today's dominant practices. The debt continuity norm in modern international finance owes its existence to older, more religiously grounded strains of thought in the Western philosophical tradition. In its legal and normative expectation that states never die, the contemporary economic framework adopts the version of continuous statism associated with Bodin and late Medieval scholars. In this view, each new ruler or regime is not granted a clean slate on which to make decisions (or build a new reputation), but rather is assumed to be the reincarnation of an indefinitely ongoing sovereign existence.

An Alternative Authorization Grounded in the People

Perhaps the most vocal competitor to a statist politics of sovereignty today is the idea of popular or democratic sovereignty. This broader ideology, which has become increasingly prominent over the last century, has markedly opposed consequences when translated into the sovereign debt regime. In this framework, sovereignty ultimately lies with a "sovereign people," whose authorization provides legitimacy to the state and its external interactions. Both the sovereign state and the laws it promulgates are valid only if they reflect the consent of the underlying population. The mechanism by which this consent finds expression is not specified, and may be direct or through representation. We can even imagine, at the outer edges of popular sovereignty, the possibility of a consensual monarchy. The key is that the state as a secularized deity has been dethroned, and now is subject in some way to the ultimately sovereign people. Under this approach, not all states are properly or equally "sovereign" simply by virtue of their territorial command. The evaluation and recognition of true sovereignty—and therefore of valid sovereign obligation—requires the consideration of a regime's internal practices.

Jean-Jacques Rousseau stands as a central thinker in this approach. Writing in the mid-eighteenth century, he conceived of a "sovereign will" founded in a social contract as providing a form of government "by means of which each one, while uniting with all, nevertheless obeys only himself and remains as free as before."[52] Emmanuel Joseph Sieyès followed in insisting on the unity of the nation with the people in the context of the French Revolution. "The Third Estate [the order of the common people as distinct from nobility and clergy] thus encompasses everything pertaining to the Nation, and everyone outside the Third Estate cannot be considered to be a member of the Nation."[53] Thomas Paine, also reflecting upon the French Revolution and equating the nation with the larger public, commented, "Monarchical sovereignty, the enemy of mankind, and the source of misery, is abolished; and sovereignty itself is restored to its natural and original place, the nation."[54] The commitment to basic self-legislation found expression in the work of Immanuel Kant as well, although Kant understood self-legislation primarily as "freedom from tutelage" in the realm of thought.[55] This attentiveness to the relevance of a state's internal makeup also resonates with the Liberal school of international relations theory, which explains the international behavior of states on the basis of their internal characteristics.[56]

The idea of a sovereign government as fundamentally grounded in the consent or authorization of the people has translated fairly smoothly into an admittedly controversial principle of international law. In this view, a sovereign state may be legally recognized—and thus capable of valid international action—only if the state is constituted by popular means. Woodrow Wilson in particular is associated with this discourse of international interaction, due to his stated commitment to the principle of self-determination in the League of Nations and his own administration's refusal to recognize governments claiming sovereignty by force.[57] While still grounded in the limitations provided by state structures and territorial boundaries, this approach resonates with the Cosmopolitan school of political theory and international law, which puts individual rights at the center of any legitimate polity or legal system. It is manifest in the emerging language of international judicial decisions and foreign policy, which Ruti Teitel analyzes as "humanity law."[58] The strong version of this approach presents a vision of consent, sovereignty, and human rights that is in deep tension with a statist concept of sovereignty as command. Modern day champions of a Wilsonian ideal of sovereign legitimacy, such as Michael Reisman, continue to promote this view of a "new constitutive, human-rights based conception of popular sovereignty."[59] Some legal scholars, such as Thomas Franck, have gone so far as to insist that contemporary international law in fact contains an emerging right to democratic governance.[60]

This democratic or popular framework of sovereignty suggests a unique relationship between the people and state legality and legitimacy. Unlike the statist conception of sovereign as command, in which law is imposed by force on a subject people, here the people themselves are sovereign and thus exist prior to the law. Rousseau makes clear that the people acting as sovereign are free even from the constraints of their own prior laws, as "it is contrary to the nature of the body politic that the sovereign impose upon itself a law it could not break."[61] Sieyès distinguished between a government and the underlying people or nation that provides the authorization for governmental action. "Government can exercise real power only insofar as it is constitutional. It is legal only insofar as it is faithful to the laws imposed upon it. The national will, on the other hand, simply needs the reality of its existence to be legal. It is the origin of all legality."[62] Thus, law and valid government action exist, but in a very different form than that found in other approaches to sovereignty.

How would this paradigm translate into a theory of agency or authority to enter into contracts? Authority should derive from the sovereign people—now properly understood to be the principal in any sovereign contract—either acting directly or through their representatives. Government officers act as their agents, and so long as they act according to the roles assigned to them or the mechanisms established by the underlying people, they have authority to bind the sovereign nation. In this framework, the people are subject only to those contracts that their authorized agents have entered, once they have been constituted as "sovereign."

In this approach, sovereign obligations, properly understood, do not exist unless they have actually been properly authorized by the population. A regime change in which a democratic sovereign government comes into being after a period of rule by other means would effectively constitute the first appearance of a legitimate sovereign government. The previously existing government would not in fact have comprised a proper sovereign state, but only a private form of rule imposed on the underlying and disempowered sovereign people. Therefore, regimes that rule by force would not be able to enter into international agreements that bind the population after their fall. And if sovereignty is conceived under this more democratic or popular framework, creditors who lend to such regimes cannot expect to be repaid after a regime change. This is not necessarily to say that all previously existing obligations would be repudiated. On the contrary, they would likely be evaluated by the newly empowered sovereign on a pragmatic basis. However, this pragmatic approach is very different from that implied by the doctrine of sovereign continuity, which presumes the perpetual nature of any sovereign obligation on the basis of strictly statist assumptions about sovereignty.

Sovereign Authorization Delimited by Law

Although the tension between strictly statist and popular conceptions of sovereignty is perhaps most well known, an intermediate alternative relevant through the last century exists in what might be called "rule of law" or constitutional sovereignty. Like popular sovereignty, this school pays attention to internal modes of legitimation in recognizing valid sovereign action. However, it does not require that this internal authorization ultimately come from the underlying people. The sovereign state exists and is both empowered and limited by its internal constitution or rule of law, whether or not it is democratic. Thus, an internal rule-of-law or constitutional framework that denotes a nonconsensual monarchical or other nondemocratic political order would be sufficient to authorize—and render presumptively binding—sovereign action.

This concept of sovereignty is not as well developed into a coherent school of political theory as strictly statist or popular sovereignty. However, it relates to Max Weber's basic insight that the use of force is not a means specific to states alone, and that therefore force cannot be the sole defining characteristic of statehood. Writing in the early twentieth century, Weber thus modified the basic definition of a sovereign state to include the element of legitimacy; a state in this view is "a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory."[63] Unlike democratic or liberal theorists, Weber himself did not insist on any substantive internal requirements for this ultimate legitimacy, and considered that different types of domestic regimes would be consonant with legitimate statehood.[64] Perhaps the paradigmatic legal theorist working in this approach was Hans Kelsen, who sought to identify and understand law as "pure"—a separate and internally coherent order independent from politics and morality.[65] Kelsen follows John Austin in separating valid law from moral questions, but differs in that he does not consider law to be ultimately reducible to force. Rather, the promulgation of acts and statutes by a sovereign government can only be identified as legally valid within the context of that state's own internal norms or legal rules, which in turn build from the basic norm *(grundnorm)* or constitution of that polity. This basic norm itself "cannot be derived from a higher norm," but instead "constitutes the unity in the multitude of norms by representing the reason for the validity of all norms that belong to this order."[66] Kelsen sought to provide law with the clearest possible "decision rule," emphasizing law as an autonomous and internally coherent order and thus granting it objectivity and stability. In so doing, he hoped to insulate it from the subjectivity and uncertainty inherent in the concept of law as sovereign command—whether the sovereign be an individual ruling by force or the people as a whole. In this, Kelsen foreshadowed Hannah Arendt's political commitment to a constitutional system of checks and balances, as well as her concern about the instability and potential extremism that could arise in both absolutist rule and pure popular sovereignty.[67]

The rule-of-law or constitutionalist conception of sovereignty as determined and limited by internal norms or rules of law can translate into the international realm as well. In this framework, international law and international affairs would remain interested in questions of internal state legitimacy. However, this approach would not investigate the substantive democratic legitimacy or internal human rights compliance of governments. Rather, it would focus on ensuring states' commitments to a more *procedural* vision of rule of law in both the domestic and international spheres. Conservative early twentieth-century American lawyers, including Supreme Court Justice (and former president) William Howard Taft, were at the forefront of this rule-of-law approach in the international arena.[68]

How would this paradigm translate into a theory of authority to enter into external debt contracts? Authority should derive from a vision of the sovereign as constituted and limited by law, so a government actor could act on behalf of the state as a whole, including its people and territory, as long as it follows the domestic legal framework. Even the government official who originally promulgated the law under which he or she acts must then stay within its purview, as *any* actor is ultimately subject to the law itself. Kelsen presents this dynamic of law-making authority and subjection to law as follows: "Only a competent authority can create valid norms; and such competence can only be based on a norm that authorizes the issuing of norms. The authority authorized to issue norms is subject to that norm in the same manner as the individuals are subject to the norms issued by the authority."[69] Given this fundamental commitment to rule of law (or basic constitutionalism) as such—as distinguished from an adherence to liberal democratic constitutionalism, for example—neither the particular internal form of the state nor the substantive content of rules and laws are important. So long as internal rules are followed, the appropriate government official can act as an agent for the sovereign state, thus binding the territory and population under that state's legal framework.

Under this approach, sovereign obligations exist and are continuous if they have been validly authorized under the internal legal framework, even if that internal framework is distasteful according to some moral standards. If the proper internal rules were followed, the sovereign obligation stands whether the previous regime was autocratic or democratic. Thus, a regime change in which a democratic government comes to power after a period of rule by other means should not alter the existence of a sovereign obligation, so long as that obligation was validly incurred under the internal rules of the previous contracting regime. Therefore, even a nondemocratic regime may enter into international agreements that bind the underlying population, so long as it specifies and then follows its own laws. And if sovereignty is conceived through this rule-of-law framework, then creditors who lend to nonrepresentative regimes may still expect repayment if they carefully respect that regime's internal constitution and rule of law. In short, this conception of sovereignty modifies somewhat the strictest doctrine of sovereign continuity. Sovereign obligations persist, regardless of regime form or regime transformation, so long as the internal rule of law in place at the time of the contract is respected by both parties to the contract: the sovereign government and the external contracting party.

Sovereign Action as Outcome-Oriented

The three schools discussed above present visions of sovereignty that are ultimately process oriented—they interrogate the relationship between the ruler and the ruled in a given state and underscore the procedures of sovereign contracting that this relationship entails. However, a discussion of the political concepts underlying sovereign debt may also focus on the *outcome* of such contracts. An outcome orientation in sovereign contracting would require that valid sovereign action be in the interests of the state, broadly understood. This orientation is not at all exclusive to any one of the three different procedural schools of sovereignty discussed above. Indeed, the internal procedures by which a sovereign action is decided or acted upon are conceptually unrelated to this approach; the action could be undertaken according to absolutist or democratic means, either following or disregarding the internal rule of law. What matters instead is attentiveness to the ultimate outcome or intended beneficiary: a given sovereign state itself, rather than those who act in its name.

This outcome orientation is, at least potentially, entirely complementary with either of the statist, popular, or rule-of-law accounts. Indeed, each of these process-based approaches may be understood as part of the larger metaparadigm of statehood characteristic of the modern era, which conceives of sovereignty as limited to an established (if expandable) territorial boundary. This geographical groundedness counters earlier ideas of a personalized sovereign ruler unifying an essentially private domain of otherwise disconnected territories. The modern concept of sovereignty not only grounded sovereign statehood in a given geographic realm, but also attempted to strip the now explicitly *public* state from its association with rulership as private ownership.[70] In place of the language of personal domain, modern discourse substitutes the language of commonwealth, public protection, and state interest. Hobbes, who insisted on there being no distinction in the basic sovereign rights of an "instituted" as opposed to an "acquired" sovereign, still postulated the initial existence of the sovereign state itself in terms of the security and order of the underlying commonwealth. Bodin, among the most absolute of the traditionalist thinkers, shared this language of the sovereign state as "commonwealth" rather than disconnected private domain. The concept of modern statehood as linked to internal responsiveness is even clearer in the popular and rule-of-law visions of sovereignty.

Several thinkers of the early to mid-modern period thought fairly explicitly about the relationship of sovereignty to sovereign debt through this model of basic responsiveness to underlying public interest. Previewing arguments afoot today, they warned that sovereign debt or "public credit" could make government officials overattentive to the needs and desires of creditors, and also enable them to embark upon understudied misadventures. This dependence would render the state less responsive to true public need and neglectful of the greater national interest. Sieyès, one of the key thinkers in the school of popular sovereignty, was hostile to the entire idea of sovereign debt and favored instead building public finance on a system of taxation. In fact, one of his central political writings on the French Revolution focused on the centrality of instituting a tax law. This law of taxation would allow the power of money to "be merged with and, so to speak, made to be identified with the nation so that it can never serve anything other than the general interest."[71] He considered the rejection of public credit so fundamental to a truly responsive constitutional government that he self-consciously called his proposed tax law nothing less than a "constitutional law of taxation."[72] This is not to say that Sieyès favored an immediate repudiation of the monarchist debt; in fact, he felt it should be repaid on practical grounds.[73]

This concern with the potentially detrimental effects of sovereign debt on a nation's core responsiveness to public need was not limited to Sieyès, the paradigmatic popular sovereigntist. The monarchist David Hume famously claimed in 1752 that, "either the nation must destroy public credit, or public credit will destroy the nation."[74] Istvan Hont has highlighted how Hume's deep suspicion of sovereign debt financing drew from his concern for national security in the face of potential international disorder. Hume felt that public credit tended to sacrifice the nation's long-term strategic interests for the short-term concern of maintaining financial stability, and also to embolden government officials to embark on capricious escapades. Hume was "quite ready to counsel sacrificing the property of thousands (he estimated that Britain had approximately 17,000 foreign and domestic creditors) on the altar of the nation's national security interests," and felt this much preferable "to the horrible political crime of sacrificing millions for the temporary safety of creditors."[75]

As Sieyès and Hume make clear, the argument that sovereign debt may be inherently antithetical to public responsiveness and the national interest is not a distinctly contemporary contention. Today's concerns about lost economic sovereignty are not at all new, and are in fact almost as old as the modern conception of statehood itself. The claim that a sovereign state, however it is internally constituted, should be attentive to the national interest, does not need to reach the extremes of Sieyès and Hume. This "outcome orientation" could result in a separate requirement that government action should be responsive to the public needs of a state, whether those are defined in statist, rule-of-law, or popular terms. This impulse might be operationalized in a requirement that valid sovereign debt at least ostensibly serve the public interest of the state, as distinct from the merely personal interest of a ruling elite masquerading as a modern officialdom.[76] Indeed, the second prong of the odious debt doctrine as imagined by Alexander Sack—that debt may be considered odious if it does not benefit the underlying population—offers such an example.

Caveats and Normative Ramifications

Three caveats are important before going any further. First, this discussion should not be misunderstood as either an attempt to provide anything close to a sufficient interpretation of the thinkers mentioned or a comprehensive overview of theories (or theorists) of sovereignty. The four paradigms highlighted here, which resonate across political theory, law, and international relations, demonstrate how different ideas of political legitimacy result in divergent expectations about government competence for sovereign contracts and the subsequent continuity of those contracts. However, the theorists within each approach disagree with each other in myriad ways and may on some questions have more in common with scholars I have categorized as belonging to a different school. Furthermore, theories of sovereignty could be organized along different dimensions altogether, or divided into a more detailed categorization. The key is that the implicit or explicit adoption of one as opposed to another politically contested vision of sovereignty will result in very different understandings of what is rational, appropriate, and reputationally enforceable. A summary of this analytical structure is presented schematically in Table 2.1.

The second and related caveat is that, although this discussion highlights the politics at the center of sovereign debt, it should not necessarily be taken as a normative assessment of either these ideas of sovereignty in their own right or their appropriateness for international finance. Certainly, a sharper framework for talking about sovereign legitimacy enables clearer political and moral debate, and I will touch upon policy questions in this book's conclusion.[77] However, I intend my categorization to serve two principal purposes that are analytically prior to policy argument. First, the discussion gives lie to any descriptive contention that a working sovereign lending system can possibly be apolitical and neutral. Indeed, the dominant continuity norm is deeply indebted to a vision of the state with roots in a particular (and contested) political philosophy. And second, these categories can be used as analytical building blocks to enable an empirical assessment of why one as opposed to another political philosophy holds sway in international debt finance today. Conceiving of these schools as "ideal types" helps to identify historical variation in the conceptual framework that underlies sovereign debt over time. In the historical discussion of the following chapters, I use them as such to underscore the shifting claims and outcomes in sovereign debt and reputation through the last century.

And, finally, it is important to point out that any sovereignty concept has both an internal and an external dimension. I have focused primarily on internal sovereignty, or the "fundamental authority relation within states between rulers and ruled."[78] However, these internal relations are in turn linked to an external dimension of sovereignty, or "a fundamental authority relation between states which is defined by international law."[79] To enter into an internationally enforceable contract, a sovereign must exist in both dimensions. It must have sufficient standing or recognition internationally to be considered a valid sovereign actor, able to make acknowledged promises on behalf of a state. It must also have the necessary relationship with the underlying people and territory to allow it to extract the resources (natural, financial, or human) to perform on a

TABLE 2.1. Sovereignty Frameworks and their Ramifications

Framework	*Internal Sovereignty*	*External Sovereignty*	*Related Explanatory Framework*	*Ability to Make Binding Contracts*
Statist Sovereignty	Relationship of command. Government is supreme and stands above the law.	Government is recognized if it has effective control over a territory, regardless of the internal mechanisms of control.	The state is understood to be a "unitary black box" whose internal machinations are irrelevant to foreign interactions.	Minimal requirement for competence/agency; even those that rule by force and fail to follow their own law may make international agreements.
(Two versions)	Premoderns & Bodin (continuous/eternal sovereignty);	Oppenheim	Waltz	Continuous: Agreements bind successors.
	Hobbes (discontinuous/ material sovereignty)			Discontinuous: Sovereign retains repudiation option.
Rule-of-Law Sovereignty	Government is both created/legitimated and limited through rule of law.	Government is valid/recognized if it exercises control through law/legal mechanisms.	Internal respect for rule of law/constitutionalism may affect foreign relations (variants of Liberal theory).	International acts are valid and binding if they follow internal requirements for competence or ratification, even if those mechanisms are nondemocratic.
	Weber; Kelsen; Arendt	Taft		

Popular Sovereignty	Government must reflect the consent or choice of the ultimate "sovereign," the underlying people. Rousseau; Sieyès; Paine	Government is valid/ recognized if it is popularly authorized. Wilson	The internal governmental form or local interests are central to understanding state action (variants of Liberal theory, i.e., democratic peace). Kant	Sovereign action is internationally valid if the government is popularly authorized. Basic rule of law/constitutionalism alone is insufficient to bind if it does not reflect the people's underlying consent.
Outcome Orientation	Process of internal rule is irrelevant so long as it produces acceptable outcomes.	Government is externally valid/ recognized if it produces positive outcomes for the state's population. Sieyès; Hume		Minimal agency/ competence requirements. Sovereign contract/action is valid and binding if its (intended) outcome benefits the public.

contract or repay a debt. Although these two elements are conceptually separate, in practice they frequently reinforce each other. A sovereign actor with a strong and clear relationship with the underlying people and territory should have fewer problems gaining international recognition and entering transnational contracts than a sovereign actor with only a tenuous link. However, the reverse channel of influence can also work: international recognition and capital may allow a government with only a tenuous internal link to strengthen its relationship of domestic control. In short, the recognition and enforcement practice of any sovereign debt regime both depends upon and reinforces a given sovereignty paradigm. The doctrine of sovereign continuity, a central philosophical support for the current sovereign debt regime, rests on and gives force to a statist conception of legitimate sovereignty. Laying bare the theoretical claims implicit in sovereign debt practices can thus sharpen our historical analysis of the lending system and provide the groundwork for more clear-eyed assessments of its ramifications.

Case Studies in the Historical Narrative

Considering theories of sovereignty may well be analytically important, but how can we study the historical development of these concepts in actual debt practices? If a politics of sovereign legitimacy is indeed implicated in every debt interaction and reputational assessment, the universe of potential cases is virtually limitless. Although the following chapters unfold in roughly chronological order, they do not constitute anything close to a complete history of the sovereign debt regime. Instead, I construct a genealogy of how debt continuity norms associated with a statist discourse dominated over other plausible alternatives in modern debt and creditworthiness. As such, I make use of historical events and cases insofar as they help us understand the contingent factors that enabled or disabled more flexible approaches to debt continuity.

In selecting cases to study over the last century, I have focused particularly on those in which we might *expect* to see resistance to debt continuity—and then asked whether or not any such resistance materialized or resulted in an actual repudiation. In chapter 1, I suggested that the issue of odious debt best highlights the questions of this book, and also that debt repudiations would be most likely to occur in situations of regime change. Therefore, I take a look at those regime changes most likely to result in odious debt claims. One possible set involves social revolutions, which explicitly reject the legitimacy of the previous regime and frequently seek to refashion the social and economic as well as the political structure of the state. As such, regimes resulting from social revolutions would reasonably be expected to repudiate the debts of the previous regime, particularly those debts used for projects that the new regime finds objectionable.[80] Another range of cases includes postdictatorial democracies, which do not necessarily seek to rework the entire foundations of the state, but do aim to place the nation on a more representative political footing. They could be expected to repudiate debt that has been lost to corruption, or debt associated with contracts signed due to political favor.[81] I have for the purposes of this book laid aside the question of postcolonial regimes and state succession, in part in order to limit the potential universe of cases but also because a separate body of law and treaty interpretation has emerged with regard to state succession.[82] As such, while these cases provide helpful background they are as a whole less appropriate for thinking through the mechanisms supporting debt continuity more generally. I also do not consider postmonarchical or postimperial regimes, which may consider their predecessor governmental forms inappropriate for a new historical period but still tend to claim continuity with the history (as well as the wealth and glory) of the previous regime.[83]

Within this universe of potential cases, my approach focuses on the contingent historical factors that enable or disable certain possibilities at key historical moments. In studying a particular country case, therefore, my goal is not dispositively to explicate state or creditor action. Rather, it is to understand how discursive frameworks and material conditions construct behavioral pathways and thus render certain decisions more or less likely. In one phrasing, this approach "is less directed toward answering the question 'why' than the question 'how,' or, more specifically, 'how possible'."[84] In other words, while some projects focus on why actors select one path over another, this approach focuses instead on the prior issue of how a potential choice is constructed or closed off. In effect, a state's ultimate reason for taking a particular decision is less central, while the conditions that make that decision conceivable or plausible constitute the core of my study.

As such, different country cases play very different roles in the study and thus are given varying weight and space in the analysis. Through the case studies of the Soviet Union and Costa Rica in chapters 3 and 4, I argue that the early twentieth century constituted a potential turning point in the debt regime—an open moment in how ideas of legitimate statehood and sovereign continuity fit into international debt and reputation. These deeper case studies reveal the possibility that an alternative discourse and practice could have been adopted more widely. This is not to say that state and creditor decisions emanate directly from these larger structures; this gives insufficient weight to the agency of particular decision makers and social groups. Rather, the focus is on how an action taken by a particular state—and perhaps a particularly brave or foolhardy state—was enabled by broader circumstances and in turn could have enabled further flexibility going forward.

The openness that these two cases reveal about the early twentieth century raises questions about why additional cases did not materialize in the mid- and late twentieth century. In chapters 5 and 6, I highlight how new material and ideational circumstances emerged in ways that undermined the early twentieth-century potential. Part of the historical puzzle for my analysis is precisely the *absence* of cases that pose a serious challenge to the dominant discourse and practice. While my interest in studying this lacuna undermines the plausibility of a pure case study method, these chapters highlight several situations in which a challenge to the statist framework was either attempted or would have been most likely to occur. Just as state action can underscore the enabling potential of broader material and ideational frameworks, partial state action or the absence of state action where it might otherwise be expected can illustrate how a particular context closed off certain possibilities.

In thinking through these cases as manifestations of a particular practice or as potential turning points, I ask three sets of questions: First, to what degree are principles or claims presented and actions taken that challenge the dominant discourse and practice? Although such articulations will frequently be made by states themselves, this is not necessarily the case. Given that norms are expectations of appropriate action shared by a community of actors, other "members of the community" may well provide arguments that enable states to act in ways that shift the long-run practices. Second, what is the immediate argumentation or response by other relevant actors for a given issue? Such actors may include interlocutors in a particular claim or dispute, external decision makers, and other relevant figures. Such a response may be hostile, receptive, or may vary across actors. The nature of the response is important as well. Are interlocutors hostile to the formulation of a claim, its practical effect, or both? Part of the claim may be rejected (i.e., the existence of a right to repudiate) while another part is implicitly accepted (i.e., that after repudiation a state should be treated as an "unseasoned borrower" rather than a "lemon"). Finally, what is the longer-term reaction of the relevant actors (i.e., creditors and government actors who serve as gatekeepers), and to what degree is their response uniform? In the case of sovereignty and odious debt treatment, is creditor willingness or unwillingness to lend a response to an assessment of creditworthiness (which implicitly suggests a theory of sovereignty, as I discuss above) or are there other issues involved?

As should be clear from the foregoing, the particular characteristics that are relevant for any given country's experience are likely to vary across case and historical period. Just as the uniform repayment norm itself is more complex than it first appears, its historical study escapes easy simplification. I have identified creditor interactions and broader norms of sovereignty as key in shaping possibilities in sovereign debt and reputation. However, the particular historical contours of these factors—and the ways in which specific actors react to these larger structures—are necessarily specific to time and place.

Conclusion

Mainstream approaches to international finance implicitly assume that it is theoretically untenable and impracticable to suggest alternatives to the current expectation of consistent repayment, or to ask about ideas of sovereign legitimacy underlying debt and reputation. These suppositions act as a bulwark against real engagement with proposals to alter the global debt regime in any significant way. However, the political theory and expected economic practice surrounding sovereign debt are not as unvarying as they initially appear. The assumptions of political neutrality, reputational stability, and creditor uniformity do not hold. And different concepts of sovereignty suggest alternative plausible approaches to debt obligations. As the following chapters emphasize, this theoretical openness is joined by historical variation. The dominant norm of debt continuity is not an ahistorical market principle but rather has been actively constructed and supported by changing market structures and broader political ideologies over the last century.

Although efforts can be made to cordon off the political realm from international business and finance, politicized concepts and arguments eventually tend to slip through. Given that the international debate surrounding sovereign legitimacy is unlikely to die down, it makes sense for those involved in the international economic arena to address the question of sovereignty head-on rather than risk being blindsided farther down the road. In the following chapters, I highlight how these questions of state legitimacy, reputation, and debt continuity have come to life in the concrete experiences of states, their creditors, and the other global actors that play a role in the sovereign debt arena. And these past experiences should offer some insight into how sovereign debt issues—at their intersection with questions of reputation and politics—are likely to unfold into the future.