



Inherited Colonial Debt and the 1949 Round Table Settlement: Odious Debt and Defect of Consent

Ahmad^{1*}, Nasran².

¹ Faculty of Law, Universitas Negeri Gorontalo, City of Gorontalo, Indonesia.

² Faculty of Teacher Training and Education, Universitas Tadulako, City of Palu, Indonesia.

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Corresponding Author:

ahmad_wijaya@ung.ac.id

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Abstract

Under the Financial and Economic Agreement of the 1949 Round Table Conference the newly recognised Republic of the United States of Indonesia assumed Netherlands Indies obligations commonly estimated at 4.3 billion guilders. This article asks what legal status that assumption had, and what legal character the unilateral abrogation effected by Law No. 13 of 1956 bore. The study is normative legal research using statutory, treaty, conceptual, historical and comparative approaches, and applies the intertemporal rule throughout. Because the Agreement allocated the obligations in four enumerated categories, the elements of the odious debt doctrine are tested category by category rather than against the debt as a single mass. They are met in different degrees across the categories, and the doctrine alone cannot ground invalidity because its standing in positive law was and remains contested. The firmer ground is defect of consent: the settlement was concluded in the shadow of force recently used against the Republic, and the right to invoke coercion is not lost through delay. The 1956 measure is accordingly better characterised as the assertion of a defect present from formation than as a breach of *pacta sunt servanda*.

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1. Introduction

On 27 December 1949 the Kingdom of the Netherlands transferred sovereignty over the former Netherlands Indies to the Republic of the United States of Indonesia, concluding the Round Table Conference held at The Hague from 23 August to 2 November 1949.¹ Under the Financial and Economic Agreement forming part of that settlement, the new federal republic assumed obligations of the Netherlands Indies in four enumerated categories.² The aggregate is commonly estimated at approximately 4.3 billion guilders, a figure varying with the method of computation and date of valuation.³ This article adopts the position, maintained in Indonesian constitutional practice since the proclamation of 17 August 1945, that the Republic existed as a State before the 1949 settlement.⁴ That position is held throughout, and its consequences are stated in Section 3.2.

What makes the arrangement a legal rather than an economic question is the composition of what was assumed. The Agreement did not transfer an undifferentiated mass. Article 25 listed consolidated pre-war loans, debts to third countries, debts to the Kingdom of the Netherlands, and internal debts; Article 26 placed interest and amortisation on the Indonesian side; and Article 27 cancelled residual debts to the Kingdom after a set-off.⁵ The contemporary accounting prepared by the International Bank for Reconstruction and Development records those categories but nowhere identifies military expenditure as a separate head.⁶ The claim frequently made in public debate, that Indonesia was charged with the cost of the armed operations conducted against the Republic, therefore requires careful statement rather than assertion; Section 3.3 supplies it.

Scholarship on the episode has developed along three tracks whose separation is itself the source of the gap addressed here. Economic historiography establishes the magnitude and fiscal consequences of the burden but receives its normative validity as given.⁷ The literature on odious debt has argued at length over whether the idea is a rule of positive law or an argument of justice, on a narrow stock of precedent from which the colonial configuration is largely absent.⁸ A parallel body of work shows how the discipline's institutions were

¹ Charter of the Transfer of Sovereignty over Indonesia, The Hague, 2 November 1949, reproduced in *International Organization* 4, no. 1 (1950): 176–77.

² Financial and Economic Agreement, concluded at the Round Table Conference, The Hague, 2 November 1949, art. 25. The text of arts. 25–27 was consulted in the reproduction annexed to IBRD, *Public External Debt of Indonesia*, Report No. E 119 (Washington, DC: IBRD, 1950), app. C.

³ J. Thomas Lindblad, *Bridges to New Business: The Economic Decolonization of Indonesia* (Leiden: KITLV Press, 2008), 49–72.

⁴ Proklamasi Kemerdekaan Republik Indonesia, 17 August 1945; Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, preamble; Heribertus Jaka Triyana, “Relevance of the Remedial Secession Theory for Indonesia’s Territorial Integrity,” *Jurnal Hukum Internasional* 21, no. 1 (2023): 1–26, <https://doi.org/10.17304/ijil.vol21.1.5>.

⁵ Financial and Economic Agreement, art. 26 (interest and amortisation).

⁶ International Bank for Reconstruction and Development, *Public External Debt of Indonesia*, Report No. E 119, prepared by Andrew C. Huang (Washington, DC: IBRD, 15 November 1950), app. C.

⁷ Howard Dick et al., *The Emergence of a National Economy: An Economic History of Indonesia, 1800–2000* (Honolulu: University of Hawai’i Press, 2002), 153–82.

⁸ Mauro Megliani, “The Odious Debt Doctrine: The Equitable Rule,” *German Law Journal* 25, no. 5 (2024): 772–96, <https://doi.org/10.1017/glj.2024.21>.

formed in and by the colonial encounter.⁹ The literature on succession and decolonisation maps the terrain and, in its critical register, contends that the rules were themselves shaped by that encounter.¹⁰ No track supplies a doctrinal test of the Round Table obligations conducted category by category, or a legal rather than political characterisation of the 1956 abrogation. To the authors' knowledge no such examination exists in the English-language or Indonesian literature; the extensive Dutch-language historiography of the financial settlement is historical rather than doctrinal in method.

The debate rests on a recurring set of precedents the Cuban debt of 1898, the Tinoco arbitration of 1923 and the Iraqi debt of 2003 each examined in Section 5. Indonesia is rarely drawn upon, although the 1949 settlement presents a configuration the precedents do not: a decolonisation agreement concluded in the immediate aftermath of armed operations, under which the emerging State assumed obligations a substantial part of which had accrued during them. Recent scholarship on reparations for colonial conduct has returned to the structural features of such settlements,¹¹ and the Indonesian case bears directly on that discussion.¹²

Two research questions follow. RQ1: what was the legal status, under the law applicable at the time, of the assumption of Netherlands Indies obligations effected by the Financial and Economic Agreement, tested against the odious debt doctrine and against the rules governing succession to State debt? RQ2: what was the legal character and effect of the unilateral abrogation effected by Law No. 13 of 1956, and what follows for the law governing inherited colonial obligations? Both are answered doctrinally. The significance is twofold: the article contributes a case largely absent from the odious debt debate, and supplies for Indonesia an ordered legal argument in place of a position more often asserted politically than legally.

2. Method

This is normative legal research: its object is the norm, the doctrine and the legal argument rather than the conduct of actors.¹³ Because the subject is public international law, the domestic framework of normative research is supplemented at three points. The sources relied on and their rank are those of Article 38(1) of the Statute of the International Court of

⁹ Georges Abi-Saab, "The Institute of International Law and the Colonial Phenomenon," *AJIL Unbound* 117 (2023): 216–20, <https://doi.org/10.1017/aju.2023.35>; Juan Pablo Scarfi, "The IDI, the ILA, and Their Impact on the Institutionalization of International Law in the Americas," *AJIL Unbound* 117 (2023): 226–30, <https://doi.org/10.1017/aju.2023.37>.

¹⁰ Matthew Craven, *The Decolonization of International Law: State Succession and the Law of Treaties* (Oxford: Oxford University Press, 2007), 110–58.

¹¹ Steven R. Ratner, "Reparations for Colonialism Beyond Legal Responsibility," *American Journal of International Law* 119, no. 3 (2025): 507–29, <https://doi.org/10.1017/ajil.2025.10077>.

¹² Vasuki Nesiah, "A Double Take on Debt: Reparations Claims and Regimes of Visibility in a Politics of Refusal," *Osgoode Hall Law Journal* 59, no. 1 (2022): 1–36, <https://doi.org/10.60082/2817-5069.3740>.

¹³ Peter Mahmud Marzuki, *Penelitian Hukum* [Legal Research], rev. ed. (Jakarta: Kencana, 2016), 93–140; Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* [Normative Legal Research: A Brief Review] (Jakarta: RajaGrafindo Persada, 2015), 13–14; Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* [Theory and Methodology of Normative Legal Research] (Malang: Bayumedia, 2006), 295–321.

Justice, and treaty texts are construed according to Articles 31 to 33 of the Vienna Convention on the Law of Treaties.¹⁴ Most importantly, the intertemporal rule governs throughout: a juridical fact is assessed by the law in force at the time it occurred, not by the law of the time at which a dispute about it arises.¹⁵ Section 4.1 applies that rule explicitly, because the article assesses a 1949 instrument against instruments concluded in 1969 and 1983.

Four approaches are combined. The statutory and treaty approach examines the Financial and Economic Agreement, the Charter of the Transfer of Sovereignty, Law No. 13 of 1956, the Charter of the United Nations, the Vienna Convention on the Law of Treaties of 1969, and the Vienna Convention on Succession of States in respect of State Property, Archives and Debts of 1983. The conceptual approach expounds the odious debt doctrine, the clean-slate rule and *pacta sunt servanda*. The historical approach is indispensable, since validity is assessed within the legal framework obtaining at conclusion. The comparative approach is carried out in Section 5, where the three standard precedents are examined for factual configuration, legal basis actually relied on, and outcome, and the Indonesian case is located among them.

Materials were obtained as follows: Articles 25 to 27 of the Financial and Economic Agreement from the reproduction annexed to the IBRD report of November 1950; the Charter of the Transfer of Sovereignty from its reproduction in *International Organization*; Indonesian legislation from the national gazette database; United Nations materials from the Official Document System and the Treaty Collection.¹⁶ Secondary literature was selected from work in English, Indonesian and Dutch bearing directly on the settlement, the doctrine, or succession to State debt, with emphasis on publications since 2020.

Analysis proceeds in five steps: identification of the applicable norms; interpretation of the elements of the doctrine, distinguishing Sack's formulation from the modern restatement; application of those elements to each category enumerated in Article 25; assessment of the validity of consent under the law applicable in 1949; and characterisation of the 1956 measure. Sections 3 and 4 apply existing law; Section 6 proposes development of it and is marked as such.

Two limitations bear on the weight of the conclusions. The study does not rest on archival research at The Hague or Jakarta, so the course of the negotiations is taken from published historiography. And the itemised application of the obligations is not on the public record: neither the Agreement nor the contemporary accounting separates military expenditure as a head, so no proportion is asserted. The consequence is set out in Section 3.3.

¹⁴ Statute of the International Court of Justice, art. 38(1); VCLT, arts. 31–33.

¹⁵ Rémi Fuhrmann and Melissa Schweizer, "Ending the Past: International Law, Intertemporality, and Reparations for Past Wrongs," *German Law Journal* 26, no. 8 (2025): 1539–59, <https://doi.org/10.1017/glj.2025.27>.

¹⁶ IBRD, *Public External Debt of Indonesia*, app. C.

3. The Legal Status of the Obligations Assumed in 1949

This part answers RQ1, proceeding from the doctrinal framework through the characterisation of Indonesia's position in 1949 to the composition of the obligations and the application of the test.

3.1. Sack's Formulation and the Modern Restatement

The proposition that not every State debt binds a successor was advanced systematically by Alexander Nahum Sack, whose study distinguished debts contracted in the interest of the State from those contracted against it, and who addressed colonial debt specifically rather than confining himself to regime change.¹⁷ The three-element formulation now treated as standard absence of consent of the population, absence of benefit to the population, and creditor knowledge of both is not Sack's text but the modern restatement developed by Khalfan, King and Thomas and elaborated in King's later work.¹⁸ The distinction matters twice over: the restatement treats creditor knowledge as a cumulative element where Sack treated it as going to the creditor's good faith, and Sack's attention to colonial debt supports a narrower novelty claim than the one sometimes advanced.¹⁹

Two underlying principles are invoked to support the doctrine, and each requires authority rather than assertion. The first is that the power to borrow in a State's name is held for the population, so that its exercise outside that purpose exceeds the authority conferred the principle on which the sole arbitrator proceeded in *Tinoco*, holding that a creditor who knew the funds were for the ruler's personal use could not recover against the State.²⁰ The second is that no party may profit from its own wrongdoing, a general principle of law long expressed in international adjudication.²¹

The standing of the doctrine in positive law is contested, and the competing positions are set out here rather than flattened. Ludington, Gulati and Brophy show that the precedents ordinarily cited reflect political settlement rather than a legal rule;²² Gelpert argues that the problems addressed can be resolved through existing instruments;²³ Bolton and Skeel shift the inquiry to the legitimacy of the borrowing regime;²⁴ and Buchheit, Gulati and Thompson observe that proof and institutional competence present acute difficulties, no forum being ordinarily available.²⁵ Against these, King restates the doctrine under stricter conditions,

¹⁷ Alexander Nahum Sack, *Les Effets des Transformations des États sur leurs Dettes Publiques et Autres Obligations Financières* (Paris: Recueil Sirey, 1927), 157–58.

¹⁸ Ashfaq Khalfan, Jeff King, and Bryan Thomas, *Advancing the Odious Debt Doctrine*, CISDL Working Paper (Montreal: Centre for International Sustainable Development Law, 2003), 17–25.

¹⁹ Jeff King, *The Doctrine of Odious Debt in International Law: A Restatement* (Cambridge: Cambridge University Press, 2016), 60–92.

²⁰ *Tinoco Claims Arbitration (Great Britain v. Costa Rica)*, Award of 18 October 1923, 1 RIAA 369, 394–99.

²¹ Robert Howse, *The Concept of Odious Debt in Public International Law*, UNCTAD Discussion Paper No. 185, UN Doc. UNCTAD/OSG/DP/2007/4 (Geneva: UNCTAD, 2007), 9–18.

²² Sarah Ludington, Mitu Gulati, and Alfred L. Brophy, "Applied Legal History: Demystifying the Doctrine of Odious Debts," *Theoretical Inquiries in Law* 11, no. 1 (2010): 247–81.

²³ Anna Gelpert, "Odious, Not Debt," *Law and Contemporary Problems* 70, no. 3 (2007): 81–114.

²⁴ Patrick Bolton and David Skeel, "Odious Debts or Odious Regimes?" *Law and Contemporary Problems* 70, no. 3 (2007): 83–108.

²⁵ Lee C. Buchheit, G. Mitu Gulati, and Robert B. Thompson, "The Dilemma of Odious Debts," *Duke Law Journal* 56, no. 5 (2007): 1201–62.

Michalowski grounds a parallel argument in constitutional invalidity, and Paulus traces consolidation in State practice.²⁶ More recent work has reframed the doctrine as an equitable rule rather than a rule of obligation,²⁷ while Basaran argues that external sovereign debt remains substantially outside the reach of international law altogether.²⁸ Waibel's survey indicates that the doctrine has operated through negotiation more often than through adjudication,²⁹ a pattern the Haitian independence debt illustrates.³⁰

This article adopts the following position and applies it consistently. The doctrine is best understood not as a freestanding rule of positive law but as a name for a mode of reasoning whose elements are distributed across settled institutions: defect of consent in treaty formation, excess of representative authority, and the rules of succession for newly independent States. The three elements therefore function as indicators, not as conditions whose satisfaction produces invalidity. The methodological consequence is explicit: where the indicators are met the conclusion is not that the obligation is void, but that the arrangement requires justification by reference to one of the settled institutions, and that the equities weigh against enforcement. Where only some indicators are met which is the situation this article finds nothing follows automatically, and the analysis must proceed to those institutions. It does so in Section 4.

One observation distinguishes the Indonesian material, and it must be framed more narrowly than is sometimes done. It is not true that the precedents all concern regime change within a single State: the Cuban debt of 1898 was a case of colonial territorial succession, and Sack addressed colonial debt expressly.³¹ The narrower and defensible claim is this. Indonesia presents a decolonisation settlement in which the assumption of obligations was agreed in the immediate aftermath of armed operations between the same two parties, with recognition of sovereignty and the assumption of obligations exchanged in a single instrument. That configuration engages the law of treaties directly, and it is the configuration the standard precedents do not supply.³² The critical historiography of the discipline makes the same point from the side of its formation.³³

²⁶ Sabine Michalowski, *Unconstitutional Regimes and the Validity of Sovereign Debt: A Legal Perspective* (Aldershot: Ashgate, 2007), 41–68; Christoph G. Paulus, "The Evolution of the Concept of Odious Debts," *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 68 (2008): 391–412.

²⁷ Megliani, "The Odious Debt Doctrine," 772–96.

²⁸ Halil Rahman Basaran, "Odious Debt," *Liverpool Law Review* 44, no. 1 (2023): 137–55, <https://doi.org/10.1007/s10991-023-09322-0>.

²⁹ Michael Waibel, *Sovereign Defaults before International Courts and Tribunals* (Cambridge: Cambridge University Press, 2011), 300–22.

³⁰ Kim Oosterlinck et al., "The Odious Haitian Independence Debt," *Journal of Globalization and Development* 13, no. 2 (2022): 339–78, <https://doi.org/10.1515/jgd-2021-0057>.

³¹ Sack, *Les Effets des Transformations des États*, 157–58.

³² Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2004), 196–244.

³³ Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960* (Cambridge: Cambridge University Press, 2001), 98–178; Punsara Amarasinghe, "Portuguese Imperial Building in the Kotte Kingdom of Sri Lanka as a Reflection of 16th Century International Law," *Lampung Journal of International Law* 5, no. 2 (2023): 113–28, <https://doi.org/10.25041/lajil.v5i2.2946>.

3.2. Succession or Treaty Obligation? The Statehood Question

The characterisation adopted in Section 1 must be followed through. If the Republic existed as a State from 1945, what occurred in 1949 was not in the first place a succession in respect of debt but the assumption of obligations by treaty, and the governing framework is the law of treaties. The clean-slate rule cannot then do the primary work, because the entity assuming the obligations was not, on this view, newly brought into existence by the transfer. The literature on sovereignty and legal personality supports treating recognition as declaratory of a statehood that already obtains rather than constitutive of it,³⁴ and self-determination was affirmed in those terms by the General Assembly a decade later.³⁵

The succession framework is therefore advanced in the alternative, for the reader who takes the Netherlands view that the Republic of the United States of Indonesia came into existence in December 1949. On that view the classical principle of continuity applies, under which a successor inherits its predecessor's obligations a principle drawn from European State practice and oriented to creditor protection.³⁶ Decolonisation placed it under strain, since consistent application means that independence arrives encumbered with the liabilities of colonisation.³⁷ The response was the clean-slate rule, elaborated in the work of the International Law Commission and later expressed in the 1983 Convention, under which no State debt of the predecessor passes to a newly independent State unless otherwise agreed, and any such agreement must not infringe permanent sovereignty over wealth and natural resources nor imperil fundamental economic equilibria.³⁸ Whether Indonesia in 1949 would fall within the Convention's definition of a newly independent State is itself contestable on the primary view taken here, which is a further reason for treating this argument as subsidiary.³⁹

Two qualifications govern any use of that Convention: it has not entered into force,⁴⁰ and it was adopted long after the events in question, so it cannot be applied retroactively. The 1983 Convention therefore cannot render the 1949 arrangement void, and no such claim is made. Its relevance is narrower: the clean-slate rule was formulated because charging colonial obligations to emerging States had come to be regarded as requiring a normative answer, and the Commission's commentaries record that assessment.⁴¹ The Convention evidences an emerging conviction among the States that supported it, not a settled conviction of the international community; a widely unratified instrument cannot carry the weight of opinio

³⁴ Muhammad Bahrul Ulum, "The Changing Notion of State Sovereignty and Legal Personality," *Lampung Journal of International Law* 4, no. 1 (2022): 25–38, <https://doi.org/10.25041/lajil.v4i1.2517>.

³⁵ UN General Assembly, Resolution 1514 (XV), 14 December 1960, UN Doc. A/4684, para. 2.

³⁶ D. P. O'Connell, *State Succession in Municipal Law and International Law*, vol. 1 (Cambridge: Cambridge University Press, 1967), 368–415.

³⁷ Craven, *The Decolonization of International Law*, 110–58.

³⁸ International Law Commission, "Draft Articles on Succession of States in respect of State Property, Archives and Debts, with Commentaries," *Yearbook of the ILC* (1981), vol. II, pt. 2, 20–73.

³⁹ Vienna Convention on Succession of States in respect of State Property, Archives and Debts, 1983, arts. 2(1)(e) and 38.

⁴⁰ The 1983 Convention is not in force, the ratifications required by art. 50 not having been attained. United Nations Treaty Collection, Status of Treaties, ch. III.

⁴¹ ILC, "Draft Articles on Succession of States," 20–73.

juris.⁴² The same modesty applies to General Assembly Resolution 1803 (XVII), which is recommendatory and concerns natural resources rather than debt; the connection drawn here is analogical and the authors' own.⁴³ Crawford and Shaw treat such instruments as indicating the direction of movement in the customary rules.⁴⁴

3.3. The Composition of the Obligations Assumed

The Agreement allocated the obligations in four categories, and the test must follow that allocation rather than treat the total as a single mass. Category A comprised pre-war loans of the Netherlands Indies, consolidated at 870.7 million guilders; Category B, debts to third countries, including an Export-Import Bank credit, a surplus property credit, a Canadian loan and an Australian settlement; Category C, debts to the Kingdom of the Netherlands arising from monetary and account balances; and Category D, internal debts existing at the date of transfer.⁴⁵ Article 27 then cancelled residual debts to the Kingdom after a set-off, a provision the contemporary accounting records as reducing the external debt due to the Netherlands substantially.⁴⁶

The central factual premise must be stated precisely, because the argument stands or falls on it. Neither the Agreement nor the IBRD accounting identifies expenditure on the armed operations of 1945 to 1949 as a separate head.⁴⁷ What can be established is narrower but sufficient. The obligations in Category C accrued between the Japanese surrender and the transfer of sovereignty, that is, over the period during which the Netherlands conducted the operations of 1947 and 1948 and the attendant occupation administration; and the economic historiography treats the expansion of the Indies' liabilities to the metropolis in that period as reflecting in substantial part the cost of maintaining the Netherlands presence and the operations conducted from it.⁴⁸ No proportion is asserted, because none is on the public record. The claim is structural rather than quantitative: a category defined by its period of accrual coincides with the period of the operations, and its creditor was the party that conducted them.

Two claims made in earlier treatments are not advanced. The first is that the transferred obligations included compensation to Netherlands nationals: no source consulted documents such a component, and compensation for property loss is in any event distinct from public debt, its treatment depending on the law of State responsibility.⁴⁹ The second

⁴² Marko Aćić and Miloš Grujić, "Implementation of the Agreement on the Succession of the Former SFRY," *Acta Politica Polonica* 58 (2024): 5–18, <https://doi.org/10.18276/ap.2024.58-01>; Tomáš Buchta, "Revival or Eternal Death? The Impact of Brexit on Early Bilateral Agreements," *Utrecht Journal of International and European Law* 37, no. 1 (2022): 1–18, <https://doi.org/10.5334/ujiel.567>.

⁴³ UN General Assembly, Resolution 1803 (XVII), 14 December 1962, UN Doc. A/5217, paras. 1 and 4. The characterisation in the text is the authors' own.

⁴⁴ James Crawford, *Brownlie's Principles of Public International Law*, 8th ed. (Oxford: Oxford University Press, 2012), 423–46.

⁴⁵ Financial and Economic Agreement, art. 25.

⁴⁶ Financial and Economic Agreement, art. 27 (cancellation of residual debts to the Kingdom after set-off).

⁴⁷ IBRD, *Public External Debt of Indonesia*, app. C.

⁴⁸ Lindblad, *Bridges to New Business*, 49–72.

⁴⁹ Patrick Dumberry, *State Succession to International Responsibility* (Leiden: Martinus Nijhoff, 2007), 55–81.

is any figure for the military share. Both are omitted rather than softened, since an argument resting on an undocumented proportion is not improved by hedging.

3.4. Applying the Elements Category by Category

On the framework set out above, the three indicators may now be applied to each category. The results are summarised in Table 1 and explained below.

Table 1. The Elements of the Odious Debt Doctrine Tested against Each Category of Obligation under Article 25

Category under Art. 25	Absence of popular consent	Absence of benefit to the population	Creditor knowledge at the time of lending	Assessment
A. Consolidated pre-war loans, f 870.7 million	Met in the qualified sense: the loans were authorised without genuine representative consent	Not met: the proceeds financed infrastructure that passed to and served the territory	Not met: lending predates the 1945–1949 operations	Continuity of obligation defensible
B. Debts to third countries (United States, Canada, Australia)	Met in the qualified sense	Contested: partly post-war reconstruction, partly supply of the Netherlands administration	Not established on the published record	Severance requires evidence not publicly available
C. Debts to the Kingdom of the Netherlands accrued 1945–1949	Met: incurred by the metropolitan authority during armed conflict with the Republic	Met in substantial part: expenditure was directed at operations against the Republic	Met: the creditor was the party that determined the expenditure	The strongest case for exclusion
D. Internal debts at the date of transfer	Met in the qualified sense	Mixed and not separable on the published record	Not applicable in the same form	Governed by succession to internal obligations, not by the doctrine

Source: *Financial and Economic Agreement 1949*, arts. 25–27; IBRD, *Public External Debt of Indonesia (1950)*, app. C (compiled by the authors).

As to consent, the position must be qualified rather than absolute. It is not accurate to say the *Volksraad* possessed no budgetary competence: after the reforms of the 1920s the budget was enacted in the colony by the Governor-General together with the *Volksraad*, within limits set from The Hague, and indigenous representation in that body, though restricted and partly appointed, was not absent.⁵⁰ The accurate and sufficient formulation is that the population charged with repayment was never in a position to give or withhold genuine representative consent, because the franchise, the composition of the body and the reserved powers of the metropolis together denied it that capacity.⁵¹ That qualified statement applies across all four categories and so does not by itself differentiate between them.

As to benefit the categories diverge sharply, and this is where the analysis does its work. Category A financed ports, roads, irrigation works and railways which after 1949 served

⁵⁰ J. S. Furnivall, *Netherlands India: A Study of Plural Economy* (Cambridge: Cambridge University Press, 1939), 391–410.

⁵¹ M. C. Ricklefs, *A History of Modern Indonesia since c. 1200*, 4th ed. (Stanford: Stanford University Press, 2008), 254–74.

the Indonesian population; as to it the argument for exclusion is weak and continuity of obligation defensible.⁵² Category C is the converse: expenditure accruing during the operations and in support of the administration conducting them did not benefit the population charged with repayment, and recent scholarship on the character and scale of those operations reinforces the point that they were directed against the population of the territory.⁵³ Category B is genuinely contested, comprising both post-war reconstruction supply and provisioning of the Netherlands administration, and the published record does not permit separation.⁵⁴ Category D raises different questions governed by succession to internal obligations rather than by the doctrine.

As to creditor knowledge, the temporal dimension is decisive and was overlooked earlier. On Sack's formulation knowledge is assessed when the loan is made.⁵⁵ Bonds placed on the market before 1940 cannot therefore be shown to be odious by reference to Security Council proceedings of 1947 to 1949; as to Category A the element is not met. As to Category C it is met squarely and without inference: the creditor was the Kingdom of the Netherlands, which did not merely know of the application of the expenditure but determined it. As to Category B the position is not established on the public record. The wider notoriety of the operations, which were the subject of proceedings before the Security Council and of the bodies it established, is relevant to Category B but supports a presumption rather than a finding.⁵⁶

The result is therefore differentiated: the indicators converge on Category C and diverge elsewhere. On the view adopted in Section 3.1 that convergence does not itself render those obligations void; it establishes that their assumption requires justification by reference to a settled institution, and directs the analysis to the validity of the consent by which they were assumed. The result also shows the objection to be targeted and severable rather than a wholesale refusal, its practical difficulty being evidentiary, since severance requires itemised records held by the predecessor State.⁵⁷

3.5. The Continuity of the Indonesian State

A technical objection recurs in discussion of this case and must be reconciled with the characterisation adopted above. The party assuming the obligations in 1949 was the Republic of the United States of Indonesia; the party abrogating the settlement in 1956 was the Republic of Indonesia in unitary form, constituted after the federal republic was dissolved in 1950. May it be said that these are distinct legal subjects, so that the latter is not bound? The answer is negative. The change from federal to unitary form was a change in the internal organisation of a single international legal personality, not the creation of a new

⁵² Anne Booth, *The Indonesian Economy in the Nineteenth and Twentieth Centuries: A History of Missed Opportunities* (Basingstoke: Macmillan, 1998), 63–89.

⁵³ Bart Luttikhuis and A. Dirk Moses, eds., *Colonial Counterinsurgency and Mass Violence: The Dutch Empire in Indonesia* (London: Routledge, 2014), 1–23; Gert Oostindie, *Soldaat in Indonesië 1945–1950* (Amsterdam: Prometheus, 2015), 29–58.

⁵⁴ Pierre van der Eng, "Marshall Aid as a Catalyst in the Decolonization of Indonesia, 1947–49," *Journal of Southeast Asian Studies* 19, no. 2 (1988): 335–52.

⁵⁵ Sack, *Les Effets des Transformations des États*, 157–58.

⁵⁶ Kahin, *Nationalism and Revolution in Indonesia*, 399–445; Martins Paparinskis, "Long Live Monetary Gold," *AJIL Unbound* 115 (2021): 154–59, <https://doi.org/10.1017/aju.2021.14>.

⁵⁷ King, *The Doctrine of Odious Debt*, 60–92.

State, and no succession of States occurred in 1950.⁵⁸ Recent practice on recognition and continuity in situations of internal transformation is consistent with that treatment.⁵⁹

That conclusion is consistent with Section 1 rather than in tension with it. On the primary view the Republic proclaimed in 1945 continued through the federal arrangement of 1949 and the unitary arrangement of 1950, so one personality runs throughout; on the alternative view a new State arose in December 1949 and continued through 1950. Either way the 1956 measure was taken by a subject bound by whatever obligations the 1949 instruments validly created, so the Indonesian objection must rest on a defect inherent in that settlement and not on the change in the form of the State.⁶⁰

4. Defect of Consent and the 1956 Abrogation

4.1. The Intertemporal Question

The 1969 Vienna Convention does not apply of its own force to a treaty concluded in 1949, and the article does not claim otherwise.⁶¹ The question is whether Article 52 codified a rule already in force. This article takes the position that it did, and states the grounds rather than assuming them. The prohibition on the threat or use of force was established by Article 2(4) of the Charter of the United Nations, in force from 24 October 1945.⁶² The International Law Commission treated the coercion provision as the consequence of that prohibition rather than an innovation, and the principal commentaries record that understanding.⁶³ Since the Conference took place in 1949, the reasoning does not operate retroactively. The contrary view, that Article 52 made new law, would place the settlement beyond the coercion argument altogether; it is tenable, and what follows is offered on the footing that the codification reading is preferable.⁶⁴ Recent work on intertemporality in colonial claims emphasises that the choice between these readings is where such claims are usually decided.⁶⁵

A distinct objection conditions the application of Article 2(4). That provision governs force in international relations, and the Netherlands characterised its operations of 1947 and 1948 as police actions internal to the Kingdom, so its application depends on whether the Republic was a State at the material time. The position adopted in Section 1 answers that question affirmatively, and the best available evidence supports it: the Security Council

⁵⁸ Matthew Craven, "The Problem of State Succession and the Identity of States under International Law," *European Journal of International Law* 9, no. 1 (1998): 142–62.

⁵⁹ Patrick Dumberry, "Investment Arbitration Awards Dealing with Recognition in the Civil War in Libya," *AJIL Unbound* 119 (2025): 296–300, <https://doi.org/10.1017/aju.2025.10041>; Eric Loefflad, "Unpartitionable: C. H. Alexandrowicz, Sovereign Divisibility, and the Longue Durée of the Polish-Lithuanian Commonwealth," *German Law Journal* 24, no. 5 (2023): 912–38, <https://doi.org/10.1017/glj.2023.51>.

⁶⁰ Veronika N. Shkabaro, "Succession of State Territory," *Alfred Nobel University Journal of Law* 1, no. 8 (2024): 113–20, <https://doi.org/10.32342/2709-6408-2024-1-8-12>.

⁶¹ Vienna Convention on the Law of Treaties, art. 4 (non-retroactivity).

⁶² Charter of the United Nations, 26 June 1945, 1 UNTS XVI, art. 2(4).

⁶³ Mark E. Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties* (Leiden: Martinus Nijhoff, 2009), 643–54.

⁶⁴ Olivier Corten and Pierre Klein, eds., *The Vienna Conventions on the Law of Treaties: A Commentary*, vol. 2 (Oxford: Oxford University Press, 2011), 1201–23.

⁶⁵ Elvis Mogesa Ongiri, "Decolonizing Intertemporal Law through the Lens of the Mau Mau Reparations Campaign," *AJIL Unbound* 119 (2025): 182–87, <https://doi.org/10.1017/aju.2025.10017>.

treated the matter as one within its competence, called in Resolution 67 (1949) for the cessation of military operations and the release of the Republican leadership, and established organs to address the dispute.⁶⁶ A purely internal matter would not have been handled in that way, and the treatment is evidence of the international character the Council attributed to the dispute.⁶⁷

4.2. Coercion as a Defect of Consent

Pacta sunt servanda presupposes a valid treaty, and a treaty procured by coercion does not satisfy that condition.⁶⁸ The factual circumstances require careful statement, because an argument that ignores the sequence recorded in the sources will not persuade a reader who knows it. The second military offensive of December 1948 occupied Yogyakarta and captured the Republican leadership, including the President and Vice-President. The Security Council responded on 28 January 1949. The Roem–Van Roijen statements of 7 May 1949 provided for the return of the Republican government to Yogyakarta, Netherlands forces withdrew, and the Conference convened at The Hague from August to November 1949 under international supervision.⁶⁹

Those facts complicate the coercion argument without defeating it, and the strongest version accommodates them. It is not that force was applied during the negotiations at The Hague, but that the settlement was concluded in the shadow of force recently used and still available: the capital had been occupied and the head of State detained within the preceding year, the military instrument remained in place, and the alternative to agreement was the resumption of operations.⁷⁰ Recent analysis of Article 52 in contemporary settings has emphasised precisely this distinction between force applied at the table and force whose recent use conditions the table.⁷¹ On that reading the undertaking given by the Indonesian delegation is more accurately described as accommodation to circumstances that could not be resisted than as freely given consent.⁷²

An objection must be stated openly. Article 52 refers to the threat or use of force, not to economic or political pressure; a proposal to extend it to economic coercion was not adopted, and the separate declaration issued in the Final Act carries less weight than a convention provision.⁷³ The argument is therefore strongest when confined to the tangible military element, and it is so confined here.

⁶⁶ UN Security Council, Resolution 67 (1949), 28 January 1949, UN Doc. S/1234.

⁶⁷ Gregorius Sri Nurhartanto, "The Functions and Importance of Representation of States in Their Relations with International Organizations of a Universal Character," *Lampung Journal of International Law* 4, no. 2 (2022): 63–76, <https://doi.org/10.25041/lajil.v4i2.2666>.

⁶⁸ Vienna Convention on the Law of Treaties, 23 May 1969, 1155 UNTS 331, art. 52 (coercion of a State by the threat or use of force).

⁶⁹ George McTurnan Kahin, *Nationalism and Revolution in Indonesia* (Ithaca: Cornell University Press, 1952), 389–445.

⁷⁰ Anthony Reid, *The Indonesian National Revolution 1945–1950* (Hawthorn: Longman, 1974), 148–73.

⁷¹ Abdulkadir Nacar, "Could VCLT 52 Block a Peace Treaty Entailing Territory Transfer After the Ukraine–Russia War?" *Public and Private International Law Bulletin* 45, no. 2 (2025): 459–95, <https://doi.org/10.26650/ppil.2025.45.2.1662246>.

⁷² Herbert Feith, *The Decline of Constitutional Democracy in Indonesia* (Ithaca: Cornell University Press, 1962), 58–86.

⁷³ Corten and Klein, *The Vienna Conventions*, 2:1201–23.

4.3. Law No. 13 of 1956: Character and Legal Effect

Law No. 13 of 1956 on the Abrogation of the Indonesia–Netherlands Relationship Based on the Round Table Conference Agreement was enacted on 3 May 1956, promulgated on 22 May 1956 and published at State Gazette 1956 No. 27.⁷⁴ Its scope is wider than the financial settlement: Articles 1 to 4 declare void the Round Table Conference agreement, the Charter of the Transfer of Sovereignty and the exchange of letters on the status quo of West New Guinea, the Netherlands–Indonesian Union and the Statute of the Union; Article 6 provides for ordinary relations between fully sovereign States; and Article 10 gives retroactive effect to 15 February 1956.⁷⁵ Terminological precision is required: the instrument effects an abrogation in Indonesian municipal law, and whether that amounts to termination or to the assertion of invalidity in international law is the question examined below. The three terms are not used interchangeably here.

The first question concerns form. A statute is municipal, whereas the object was an international agreement, and a State may not invoke internal law to justify failure to perform a treaty.⁷⁶ The statute therefore did not of itself terminate the agreement internationally; it ended its operation within the Indonesian legal order and declared the position of the State.⁷⁷ Nor was the procedure now codified in Articles 65 to 68 followed, which requires notification, affords the other party an opportunity to object, and refers the dispute to settlement.⁷⁸ Those requirements were not binding treaty law in 1956, but they reflect good faith, and the literature on withdrawal treats compliance with them as the principal determinant of a measure's international effect.⁷⁹ The Netherlands did not accept the abrogation, and the dispute continued into the following decade.⁸⁰

The second question concerns the ground of justification, and the choice between the available grounds determines the character of the act. Fundamental change of circumstances is a recognised ground but subject to stringent conditions and expressly unavailable where the change was foreseeable; the International Court has applied it restrictively.⁸¹ As the weight of the payment burden was foreseeable at conclusion, the construction is weak.⁸²

⁷⁴ Undang-Undang Nomor 13 Tahun 1956 tentang Pembatalan Hubungan Indonesia-Nederland Berdasarkan Perjanjian Konperensi Meja Bundar, Lembaran Negara 1956 No. 27, enacted 3 May 1956, promulgated 22 May 1956, <https://peraturan.bpk.go.id/Details/51096>.

⁷⁵ Law No. 13 of 1956, arts. 1–4, 6 and 10.

⁷⁶ Vienna Convention on the Law of Treaties, art. 27 (internal law and observance of treaties).

⁷⁷ Ni Ketut Sari Adnyani et al., "Integrating State Sovereignty and International Obligations: A Comparison of Indonesian and Philippine International Law into Domestic Constitutional Systems," *Lampung Journal of International Law* 7, no. 2 (2026): 119–34, <https://doi.org/10.25041/lajil.v7i2.4909>; Hananto Widodo et al., "Balancing National Constitutions and International Trade Commitments: Comparative Insights from Indonesia, Thailand, and India," *Lampung Journal of International Law* 7, no. 2 (2026): 103–18, <https://doi.org/10.25041/lajil.v7i2.4813>.

⁷⁸ Vienna Convention on the Law of Treaties, arts. 65–68.

⁷⁹ Lider Bal, "Discussions on Authority and Procedure in Withdrawal from International Treaties from the Perspective of International Law," *Public and Private International Law Bulletin* 43, no. 2 (2023): 639–79, <https://doi.org/10.26650/ppil.2023.43.2.1366123>.

⁸⁰ Hans Meijer, *Den Haag–Djakarta: De Nederlands-Indonesische betrekkingen 1950–1962* (Utrecht: Het Spectrum, 1994), 237–89.

⁸¹ Vienna Convention on the Law of Treaties, art. 62 (fundamental change of circumstances), in particular art. 62(2).

⁸² Malcolm N. Shaw, *International Law*, 8th ed. (Cambridge: Cambridge University Press, 2017), 697–733.

Defect of consent from the outset is the stronger ground, and on this ground the measure is not a breach excused by necessity but the assertion of a right not to be bound by consent that was not validly given.⁸³

A point overlooked in earlier treatments strengthens that conclusion, and it concerns delay. Article 45, under which a State may lose the right to invoke a ground of invalidity by acquiescence, applies by its terms to Articles 46 to 50 and to the grounds of termination in Articles 60 and 62. It does not apply to coercion under Articles 51 and 52, nor to conflict with a peremptory norm under Article 53.⁸⁴ The reason is structural: coercion renders a treaty void rather than voidable, and what is void *ab initio* is not cured by the passage of time.⁸⁵ The seven-year delay, which would weaken a plea of changed circumstances, therefore does not weaken the plea of coercion which removes the principal doctrinal objection to the Indonesian position.

4.4. Material Breach and the West New Guinea Dispute

The most important context for the 1956 measure was omitted earlier. The Charter of the Transfer of Sovereignty provided that the status of West New Guinea would be determined by negotiation within one year of the transfer.⁸⁶ That negotiation failed, the territory remained under Netherlands administration, and the dispute dominated the bilateral relationship through the first half of the 1950s.⁸⁷ The legal significance is direct. A party faced with a material breach may invoke it as a ground for terminating the treaty or suspending its operation, a rule reflecting general international law before its codification.⁸⁸ Non-performance of an obligation to negotiate the status of territory within a stipulated period can constitute such a breach where the provision is essential to the object and purpose of the settlement.

That ground interacts with those already considered, and the two are not alternatives of equal character: material breach presupposes a valid treaty and terminates it prospectively, whereas coercion asserts that the instrument was void from the outset. They cannot both be primary. The Indonesian position is therefore best expressed as follows: the primary contention is invalidity for defect of consent, unaffected by delay; the alternative, if that plea fails, is termination for material breach of the provision on West New Guinea, to which Article 45 would apply and against which the record of Indonesian protest through the early 1950s is evidence rebutting acquiescence.

⁸³ Anthony Aust, *Modern Treaty Law and Practice*, 3rd ed. (Cambridge: Cambridge University Press, 2013), 274–97.

⁸⁴ Vienna Convention on the Law of Treaties, art. 45, by its terms applicable to arts. 46–50 and to arts. 60 and 62, and not to arts. 51–53.

⁸⁵ Serhii Perepolkin, Tetiana Syroid, and Ievgen Renov, “Development of the Jus Cogens Concept by International Judicial Bodies,” *Konstytutsiino-pravovi akademichni studii*, no. 1 (2026): 1–12, <https://doi.org/10.24144/2663-5399.2026.1.15>.

⁸⁶ Charter of the Transfer of Sovereignty, art. 2, on determination of the status of West New Guinea by negotiation within one year.

⁸⁷ Meijer, *Den Haag–Djakarta*, 237–89.

⁸⁸ Vienna Convention on the Law of Treaties, art. 60 (termination or suspension as a consequence of breach), in particular art. 60(1) and (3).

The 1956 measure did not stand alone. It formed part of a sequence culminating in the nationalisation of Dutch-owned enterprises in 1958, which indicates that what Indonesia contested was the structure of economic relations established in 1949 and not merely the quantum of payment.⁸⁹ Two consequences followed. Unilateral action transferred the dispute to a later negotiating table rather than settling it.⁹⁰ And it is often asserted that repudiation carries a reputational cost in impaired access to international finance; the general literature supports that at the level of tendency,⁹¹ but no evidence specific to Indonesia after 1956 is presented here, and the proposition is advanced as a hypothesis rather than a finding.⁹²

5. The Indonesian Case in Comparative Perspective

Cuba, 1898. On the cession of Cuba, Spain sought to transfer the Cuban colonial debt to the United States or to the island. The United States refused, arguing that the debt had financed the suppression of Cuban insurrections, had been imposed without Cuban consent, and had been lent with knowledge of its application; the Treaty of Paris did not transfer it.⁹³ The configuration is colonial and territorial rather than a regime change, but the basis relied on was negotiation backed by the relative position of the parties, and no tribunal applied a rule.⁹⁴ Indonesia differs in the decisive respect that the party resisting the burden was the weaker one.

Tinoco, 1923. In the arbitration between Great Britain and Costa Rica the sole arbitrator held that the Royal Bank of Canada could not recover on advances to the Tinoco regime, because the bank knew that the funds were for the personal use of the ruler and his brother.⁹⁵ The configuration is a change of government within a State, and the basis relied on was the ordinary law of agency and good faith rather than a distinct doctrine of odious debt. It supports the creditor-knowledge element and the trust rationale as applications of general principles, consistently with Section 3.1.

Iraq, 2003. After the invasion the Security Council shielded Iraqi petroleum revenues from creditor attachment, and a substantial write-off followed in the Paris Club.⁹⁶ The configuration is regime change; the basis was political settlement among creditor States supported by a Council resolution, and odious debt was conspicuously not invoked as the operative ground.⁹⁷ The precedent confirms the pattern Waibel identifies, that relief comes through negotiation rather than adjudication.

⁸⁹ Undang-Undang Nomor 86 Tahun 1958 tentang Nasionalisasi Perusahaan-Perusahaan Milik Belanda, Lembaran Negara 1958 No. 162.

⁹⁰ Meijer, *Den Haag-Djakarta*, 237–89.

⁹¹ Carmen M. Reinhart and Kenneth S. Rogoff, *This Time Is Different: Eight Centuries of Financial Folly* (Princeton: Princeton University Press, 2009), 51–72.

⁹² Odette Lienau, *Rethinking Sovereign Debt: Politics, Reputation, and Legitimacy in Modern Finance* (Cambridge, MA: Harvard University Press, 2014), 54–89.

⁹³ Treaty of Peace between the United States and Spain, Paris, 10 December 1898, 30 Stat. 1754, arts. I and VIII.

⁹⁴ Ludington, Gulati, and Brophy, “Applied Legal History,” 247–81.

⁹⁵ *Tinoco Claims Arbitration*, 1 RIAA 369, 394–99.

⁹⁶ UN Security Council, Resolution 1483 (2003), 22 May 2003, UN Doc. S/RES/1483, para. 22.

⁹⁷ Gelpert, “Odious, Not Debt,” 81–114.

Three points emerge. The configuration is closest to Cuba, being colonial and territorial, but the distribution of bargaining power was reversed, which explains why the obligations were assumed rather than repudiated at the outset. The creditor-knowledge position is stronger than Tinoco's as to Category C, the creditor being the State that determined the expenditure rather than a bank that knew of it. And unlike Iraq, no multilateral institution intervened on the debtor's side, so the dispute remained bilateral and asymmetric.⁹⁸ The comparison therefore supports a narrow claim: Indonesia is not a better example of an established rule, but a configuration in which the reasoning behind the rule applies with unusual clarity while the means of giving effect to it were absent.⁹⁹

6. Implications for the Law Governing Inherited Colonial Obligations

The four propositions advanced in this part are proposals for the development of the law and not statements of existing law. They are marked as such, supported individually, and tested against one another, since they do not sit together without friction.

First, the validity of a newly independent State's consent to inherited colonial burdens should be assessed by reference to the circumstances of its formation and not merely to the presence of a signature. Where recognition of a State's existence is exchanged in a single instrument against the assumption of financial burdens, what occurs is not an exchange between equals but the setting of a price by the party controlling the circumstances, and a law of treaties premised on formal equality cannot appraise it.¹⁰⁰ This develops the existing law on defect of consent rather than departing from it, and recent reparations scholarship advances comparable arguments.¹⁰¹

Second, severance of obligations that benefited the population from those applied against it should become the ordinary approach. Such a rule protects good-faith creditors in respect of genuinely beneficial financing while foreclosing the charging of the cost of suppression to those suppressed.¹⁰² The friction with the first proposal must be acknowledged: severance presupposes the instrument is valid in part, whereas defect of consent affects it as a whole. The two therefore operate in the alternative, severance being the remedy where invalidity is not established.¹⁰³

Third, capacity to pay merits recognition as a legal limit rather than a policy consideration. A newly independent State faces immediate demands to build institutions, services and security, and a burden that erodes that capacity is inconsistent with the sovereignty recognised; the limitation later expressed in the 1983 Convention points this way, and the

⁹⁸ Ansori Ansori et al., "Understanding the Politics of International Law: A Case Study of the Israel-Palestine Conflict," *Lampung Journal of International Law* 8, no. 1 (2026): 13-34, <https://doi.org/10.25041/lajil.v8i1.5118>.

⁹⁹ Karina Theurer, "Minimum Legal Standards in Reparation Processes for Colonial Crimes: The Case of Namibia and Germany," *German Law Journal* 24, no. 6 (2023): 1146-68, <https://doi.org/10.1017/glj.2023.81>.

¹⁰⁰ Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge: Cambridge University Press, 2011), 95-126.

¹⁰¹ Ratner, "Reparations for Colonialism," 507-29.

¹⁰² King, *The Doctrine of Odious Debt*, 60-92.

¹⁰³ B. S. Chimni, "Third World Approaches to International Law: A Manifesto," *International Community Law Review* 8, no. 1 (2006): 3-27.

literature on economic self-determination develops it.¹⁰⁴ The proposal sits uneasily with the apportionment rules of succession, which allocate by connection rather than capacity, and would require those rules to accommodate an economic threshold.¹⁰⁵

Fourth, the burden of proof requires proportionate allocation. Requiring a newly independent State to establish the application of every portion of obligation incurred by a colonial power places the burden on the party with least access to the records, which remain with the predecessor.¹⁰⁶ The reasonable rule is that where the emerging State shows that a category accrued during and in support of operations against the population of the territory, the burden of showing otherwise shifts to the party claiming payment. The difficulty is institutional: an evidentiary rule presupposes a forum, and Section 5 shows that none has been available.¹⁰⁷ The proposal is therefore addressed in the first instance to negotiating practice and to any future codification, not to adjudication.¹⁰⁸ Scholarship from the former colonies has pressed the same claim from outside the codifying institutions.¹⁰⁹

These proposals are not of historical interest only. Claims concerning colonial-era conduct have returned to international and domestic fora; the Netherlands research programme on the violence of 1945 to 1950 published its findings on 17 February 2022 and the government apologised the same day.¹¹⁰ The reassessment that followed has been substantial¹¹¹ and has drawn attention to whose accounts the earlier record omitted.¹¹² No financial settlement has

¹⁰⁴ Amritha Viswanath Shenoy, "Economic Rights under the UN System and the Creation of a Newer International Economic Order," *Asian Journal of Law and Policy* 1, no. 1 (2021): 1–16, <https://doi.org/10.33093/ajlp.2021.1>; Muhammad Reza Syariffudin Zaki et al., "Safeguarding Sovereignty: Indonesia's Solution to the Raw Materials Case in WTO," *Jurnal Hukum Internasional* 20, no. 4 (2023): 1–22, <https://doi.org/10.17304/ijil.vol20.4.5>.

¹⁰⁵ Mohammed Bedjaoui, *Towards a New International Economic Order* (Paris: UNESCO, 1979), 81–126.

¹⁰⁶ Amah Emmanuel Ibiam and Hemen Philip Faga, "Indigenous Peoples' Rights over Natural Resources: An Analysis of Host Communities Rights in Nigeria," *Lampung Journal of International Law* 3, no. 2 (2021): 121–36, <https://doi.org/10.25041/lajil.v3i2.2402>.

¹⁰⁷ Buchheit, Gulati, and Thompson, "The Dilemma of Odious Debts," 1201–62.

¹⁰⁸ Patrick Dumberry, "A Critical Analysis of the Work of the ILC on 'State Succession in Matters of State Responsibility': A Missed Opportunity," *Leiden Journal of International Law* 38, no. 3 (2025): 550–69, <https://doi.org/10.1017/S092215652400058X>.

¹⁰⁹ Swati S. Parmar, "An Anticolonial Dream against the Disaffection and Dissonance: Teaching the (Other) International Law in India," *Jurnal Hukum Internasional* 20, no. 2 (2023): 1–24, <https://doi.org/10.17304/ijil.vol20.2.4>.

¹¹⁰ On the findings of the research programme *Onafhankelijkheid, dekolonisatie, geweld en oorlog in Indonesië 1945–1950*, published 17 February 2022, and the apology offered the same day, see Protschky and Brandon, "Forum on Decolonisation and Violence in Indonesia," 1–10.

¹¹¹ Susie Protschky and Pepijn Brandon, "Forum on Decolonisation and Violence in Indonesia," *BMGN: Low Countries Historical Review* 140, no. 2 (2025): 1–10, <https://doi.org/10.51769/bmgn-lchr.19564>.

¹¹² Katharine McGregor, "Silences and Memories of the Indonesian Revolution and Dutch Colonialism," *BMGN: Low Countries Historical Review* 140, no. 2 (2025): 11–22, <https://doi.org/10.51769/bmgn-lchr.19569>.

accompanied it, and the questions addressed here remain open,¹¹³ as comparable claims elsewhere show.¹¹⁴

7. Conclusion

RQ1 is answered as follows. The assumption of Netherlands Indies obligations under the Financial and Economic Agreement was not void under the law applicable in 1949, and is not rendered void by the odious debt doctrine, whose standing in positive law was and remains contested and which this article treats as a mode of reasoning rather than a rule. Tested category by category, the indicators converge only on the obligations to the Kingdom accruing between 1945 and 1949; as to consolidated pre-war loans they do not, and continuity of obligation is defensible. The status of the assumption is therefore this: valid in form, binding in part, and voidable as a whole for defect of consent in the formation of the instrument. It was vulnerable not for want of a rule but for want of valid consent.

RQ2 is answered as follows. Law No. 13 of 1956 is an instrument of municipal law that did not of itself terminate the agreement internationally, and the procedure of notification and objection was not followed. Its character depends on the ground selected: grounded in fundamental change of circumstances it is weak, the burden having been foreseeable. Grounded in defect of consent it is not a breach of *pacta sunt servanda* but the assertion of an invalidity present from formation, and the seven-year delay does not weaken it, because the right to invoke coercion is not among those lost by acquiescence. Material breach of the provision on West New Guinea is available as a subsidiary ground. The measure was therefore defensible in law, though the manner of its exercise left the dispute to a later and less favourable table.

Two limits are stated plainly. The itemised application of the obligations is not on the public record, so the claim about Category C is structural resting on the coincidence between the period of accrual and the period of the operations, and on the identity of the creditor not quantitative. And the proposition that repudiation carried a measurable reputational cost for Indonesia is a hypothesis, not a finding.

Three applications follow. A successor State facing a comparable settlement should contest the categories separately rather than the total, ground its objection in defect of consent rather than changed circumstances, and raise it by notification rather than municipal statute alone. A creditor should expect obligations accruing during and in support of operations against the population of the territory to be treated differently from financing of demonstrable benefit, and should document the application of funds accordingly.¹¹⁵ And any future codification of the law of succession to State debt should address the allocation of the

¹¹³ Sinja Graf, "Law, Time, and (In)justice after Empire: Germany's Objection to Colonial Reparations and the Chronopolitics of Deflection," *International Theory* 17, no. 1 (2025): 1–28, <https://doi.org/10.1017/S1752971924000113>.

¹¹⁴ Ceren Zeynep Pirim and Emre Öktem, "The Right of Meskhetian Turks to Return to Their Country," *Public and Private International Law Bulletin* 44, no. 2 (2024): 433–86, <https://doi.org/10.26650/ppil.2023.44.2.1494095>.

¹¹⁵ Calvin Paulus Marcelito Simanjuntak, "Actio Popularis in International Accountability: A Case Research of the UAE," *Lampung Journal of International Law* 7, no. 1 (2025): 1–14, <https://doi.org/10.25041/lajil.v7i1.3965>.

burden of proof, which the 1983 Convention does not.¹¹⁶ Archival examination at The Hague and Jakarta would permit a more precise severance of the categories and test how far these conclusions hold at the level of proof.¹¹⁷

AI Use Disclosure

The authors used a generative artificial intelligence tool to assist with language editing and with the organisation of source material. The tool was not used to generate legal analysis, to formulate arguments, or to produce citations. Every source cited in this article has been checked against the original text by the authors, who take full responsibility for the content.

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116 Dumberry, "A Critical Analysis of the Work of the ILC," 550–69.

117 Rudraksh Lakra, "Echoes of Empire in Wires and Waves: The Long Shadow of Colonialism in India's Telecommunications Act 2023," *German Law Journal* 27, no. 1 (2026): 108–33, <https://doi.org/10.1017/glj.2026.10207>.

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