

PERSONAL DEBT AND DISCIPLINARY POWER

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I. INTRODUCTION

Personal debt has been a constant feature of economic life for most of human existence.¹ Much like the Marxian diagnosis of the exploitative relationship between laborers and the capital owning class in times of industrial capitalism,² scholars have recognized that the relationship between creditors and debtors is equally a strand of class-based power under late capitalism, marked by various forms of domination and expropriation.³

While the unequal relationship between creditors and debtors has always existed, the ubiquity of personal debt has taken on new dimensions since the late 1970s with the advent of neoliberalism and its associated program for financializing the United States economy.⁴ The most alarming feature of financialized capitalism is the deliberative shift away from Keynesianism

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1. DAVID GRAEBER, *DEBT: THE FIRST 5,000 YEARS* 8 (2011); *see also* MATTHEW DESMOND, *POVERTY, BY AMERICA* 71 (2023) (noting that the cycle of debt “might be the oldest form of exploitation after slavery”); MARY MELLOR, *THE FUTURE OF MONEY: FROM FINANCIAL CRISIS TO PUBLIC RESOURCE* 59 (2010) (“Debt has always existed in human societies.”).

2. *See* KARL MARX, *CAPITAL: A CRITICAL ANALYSIS OF CAPITALIST PRODUCTION VOLUME I*, 517, 520, 540 (Frederick Engels ed., Samuel Moore & Edward Aveling trans., New York, Appleton & Co. 1889).

3. *See* MAURIZIO LAZZARATO, *THE MAKING OF THE INDEBTED MAN: AN ESSAY ON THE NEOLIBERAL CONDITION* 24 (Joshua David Jordan trans., Semiotext(e) 2012) (2011); TIM DI MUZIO & RICHARD H. ROBBINS, *DEBT AS POWER* 16 (2016); *see also* Adrienne Roberts & Susanne Soederberg, *Politicizing Debt and Denaturalizing the ‘New Normal,’* 40 *CRITICAL SOCIO.* 657, 662 (2014) (noting that debt is a “social relation of power closely tied to class-based rule in neoliberal capitalism”).

4. GERALD A. EPSTEIN, *FINANCIALIZATION AND THE WORLD ECONOMY* 3 (2005). The term “financialization” has been defined as “the increasing role of financial motives, financial markets, financial actors and financial institutions in the operation of the domestic and international economies.” *Id.*

that operated in post-World War II America towards an economic model structured upon individual and household debt-based consumption as a vehicle for promoting national growth.⁵ The financialization of American society has wrought stagnant wages, job instability, flexible workplace programs, periods of underemployment, a weakened social safety net, and the implementation of a regressive tax system favoring wealthy elites.⁶ Consequently, individuals and families today needfully utilize credit—and incur heavy debt—to inflate otherwise deadened incomes to prevent slipping into economic marginalization, where credit has replaced earnings as a source of purchasing power. Indeed, consumer debt is now “the defining facet of how capitalism functions today.”⁷ But Americans, by and large, do not take on nearly-insurmountable debt for frivolous consumption but rather for essential needs to promote social and economic security, such as homes, cars, healthcare, childcare, education, and daily living expenses.⁸ While industrial capitalism exploited workers through subsistence wages—which still exists in abundance—“finance capitalism adds the exploitation of consumptive individuals via indebtedness.”⁹

In addition to its economic dimensions, neoliberalism is also a form of governmental rationality with an accompanying hegemonic discourse¹⁰ espousing personal responsibility, liberty, and freedom as guiding principles for the entire social order, but also in relationships between creditors and debtors.¹¹ This discourse of personal financial responsibility is interiorized

5. See Johnna Montgomerie, *The Logic of Neo-Liberalism and the Political Economy of Consumer Debt-Led Growth*, in *NEO-LIBERALISM, STATE POWER AND GLOBAL GOVERNANCE* 157, 157-59 (Simon Lee & Stephen McBride eds., 2007); see also Daniel G. Cooper & Bradley D. Olson, *All Roads Lead to Finance: A Critical Overview of Debt in the USA*, in *SOCIAL AND PSYCHOLOGICAL DIMENSIONS OF PERSONAL DEBT AND THE DEBT INDUSTRY* 39, 40 (Serdar M. Değirmencioğlu & Carl Walker eds., 2015) (“One of the most glaring economic shifts is that economic growth has become reliant on debt-fueled consumption.”).

6. See Tayyab Mahmud, *Precarious Existence and Capitalism: A Permanent State of Exception*, 44 *SW. L. REV.* 699, 710-17 (2015); see also KEVIN T. LEICHT & SCOTT T. FITZGERALD, *POSTINDUSTRIAL PEASANTS: THE ILLUSION OF MIDDLE-CLASS PROSPERITY* 10-11 (2007).

7. PETER FLEMING, *THE DEATH OF HOMO ECONOMICUS: WORK, DEBT, AND THE MYTH OF ENDLESS ACCUMULATION* 25-26 (2017).

8. See Johnna Montgomerie, *The Pursuit of (Past) Happiness? Middle-class Indebtedness and American Financialisation*, 14 *NEW POL. ECON.* 1, 16-18 (2009); Joseph N. Cohen, *The Myth of America’s “Culture of Consumerism”: Policy May Help Drive American Household’s Fraying Finances*, 16 *J. CONSUMER CULTURE* 531, 532 (2016).

9. Richard Peet, *Contradictions of Finance Capitalism*, *MONTHLY REV.*, Dec. 2011, at 18, 26.

10. A discourse refers to “distinctive ways of talking about objects and events in the world.” Christina Scharff, *The Psychic Life of Neoliberalism: Mapping the Contours of Entrepreneurial Subjectivity*, 33 *THEORY, CULTURE & SOC’Y* 107, 111 (2016).

11. See DAVID HARVEY, *A BRIEF HISTORY OF NEOLIBERALISM* 7 (2005) (“The assumption that individual freedoms are guaranteed by freedom of the market and of trade is a cardinal feature

by individual debtors and forms a moral calculus of self-evaluation regarding the repayment of debt, where the failure to do so induces feelings of guilt, shame, and self-blame.¹² As Maurizio Lazzarato and others have described, today being in a state of perpetual indebtedness is the existential condition for individuals and households across the socioeconomic spectrum, where perhaps only the most economically fortunate among us are shielded from the downward pressures of dealing with debt.¹³ More significantly, debt is also a form of discipline and social control exercised through relations of power that impacts lived experiences and has both material and psychic consequences for people in their everyday lives.¹⁴

Since the Great Recession of 2007–2009, there has been an avalanche of scholarly literature exploring the contours of credit and debt across their multiscalar and geographical reach.¹⁵ To date, most of the scholarly efforts linking personal debt to neoliberal financialization have been focused on the macrolevel of analysis.¹⁶ A small handful of studies have linked neoliberal policies and discourse to the lived experience of debtors.¹⁷ Despite these

of neoliberal thinking, and it has long dominated the US stance towards the rest of the world.”); PIERRE DARDOT & CHRISTIAN LAVAL, *THE NEW WAY OF THE WORLD: ON NEOLIBERAL SOCIETY* 4 (Gregory Elliot trans., Verso 2013) (2009) (arguing that neoliberalism is the rationality for contemporary capitalism).

12. Scholars have long empirically uncovered the relationship between debt and internalized feelings of shame, guilt, and stigma. See generally Matthew Sparkes, “*I Just Felt Responsible for my Debts*”: *Debt Stigma and Class(ificatory) Exploitation*, in *DEBT AND AUSTERITY: IMPLICATIONS OF THE FINANCIAL CRISIS* 125 (Jodi Gardner et al. eds., 2020); Michael D. Sousa, *Bankruptcy Stigma: A Socio-Legal Study*, 87 AM. BANKR. L.J. 435, 438 (2013).

13. See LAZZARATO, *supra* note 3, at 7-9; see also MICHAEL HARDT & ANTONIO NEGRI, *DECLARATION 10* (2012) (“Being in debt is becoming today the general condition of social life.”); Hugh Gusterson & Catherine Besteman, *Introduction* to *THE INSECURE AMERICAN: HOW WE GOT HERE AND WHAT WE SHOULD DO ABOUT IT* 7 (Hugh Gusterson & Catherine Besteman eds., 2010) (“Debt is an essential feature of neoliberal society.”).

14. See MAURIZIO LAZZARATO, *GOVERNING BY DEBT* 69 (Joshua David Jordan trans., Semiotext(e) 2015) (2013); see also Tayyab Mahmud, *Debt and Discipline*, 64 AM. Q. 469, 470 (2012) (dissecting debt as a form of discipline).

15. See, e.g., W. Nathan Green, *Financing Agrarian Change: Geographies of Credit and Debt in the Global South*, 46 PROGRESS HUM. GEOGRAPHY 849 (2022); Randy Hodson et al., *Credit Card Blues: The Middle Class and the Hidden Costs of Easy Credit*, 55 SOCIO. Q. 315 (2014); Yun K. Kim, *Household Debt Accumulation and the Great Recession of the United States of America: A Comparative Perspective*, 52 REV. RADICAL POL. ECON. 26 (2020).

16. See generally SUSANNE SOEDERBERG, *DEBTFARE STATES AND THE POVERTY INDUSTRY: MONEY, DISCIPLINE AND THE SURPLUS POPULATION* (2014); Linda E. Coco, *Mortgaging Human Potential: Student Indebtedness and the Practices of the Neoliberal State*, 42 SW. L. REV. 565 (2013); Johnna Montgomerie, *America’s Debt Safety-Net*, 91 PUB. ADMIN. 871 (2013).

17. See, e.g., Elizabeth Sweet et al., *Embodied Neoliberalism: Epidemiology and the Lived Experience of Consumer Debt*, 48 INT’L J. HEALTH SERVS. 495, 496 (2018) (linking the relationship between neoliberal forces of debt to health outcomes); Johnna Montgomerie & Daniela Tepe-Belfrage, *Caring for Debts: How the Household Economy Exposes the Limits of Financialisation*, 43 CRITICAL SOCIO. 653, 655, 657 (2017) (examining how debt impacts households by examining

important works, there remains a need to denaturalize the relationship between creditors and individual debtors and to unpack the mechanisms through which power and discipline operate to subjectify debtors in their quotidian lives.¹⁸

The purpose of this essay is to report some of the themes and patterns that emerged from a year-long qualitative case study of a legal aid office assisting individuals in filing for bankruptcy relief due to unmanageable debt. Filing for bankruptcy is an expected consequence of a national economy premised upon debt-based consumption,¹⁹ and turning to the bankruptcy system represents the social safety net of last resort in our financialized economy.²⁰ During the study, I interviewed thirty-six debtors with the goal of exploring how people experiencing unmanageable debt grappled with their situations materially and how their debts impacted them psychologically, both before and after reaching the decision to file bankruptcy. Drawing upon Michel Foucault's theoretical framework of disciplinary power, the findings of this study contribute to a deeper understanding of how debt operates as a form of power that subjectifies individuals to think about themselves in certain ways and to defensively react to legal collection efforts as they deal with their financial circumstances before turning to bankruptcy as a last option.

This essay is comprised of the following three parts. Part II serves to describe Foucauldian power as the analytical framework that drove the study. Part III reports some of the major themes and findings from the broader case study. Finally, Part IV offers the reader a brief conclusion.

II. FOUCAULDIAN POWER AS AN ANALYTICAL FRAMEWORK

An enduring conceptual theme and object of research for Michel Foucault throughout his rich body of work was the notion of "power."²¹ Over

threads in digital forums); Nicky Kanade & Bruce Curtis, *Student Debt, Neoliberalism and Frame Analysis: A Goffmanesque Account of Neoliberal Governmentality*, 55 J. SOCIO. 511, 518 (2019) ("The act of taking on student loan debt reinforces that individuals within neoliberal society occupy market identities.").

18. "'Subjection' signifies the process of becoming subordinated by power as well as the process of becoming a subject." JUDITH BUTLER, *THE PSYCHIC LIFE OF POWER: THEORIES IN SUBJECTION 2* (1997).

19. See MARK HORSLEY, *THE DARK SIDE OF PROSPERITY: LATE CAPITALISM'S CULTURE OF INDEBTEDNESS 47* (Routledge 2016) (2015).

20. The primary benefit to individuals filing for bankruptcy relief is receiving a discharge of most forms of unsecured debt, and thereby experience a "fresh start" in life. Doug Rendleman, *The Bankruptcy Discharge: Toward a Fresher Start*, 58 N.C. L. REV. 723, 723 (1980) ("The fresh start concept is an overarching policy that shapes almost every part of bankruptcy.").

21. See generally MICHEL FOUCAULT, *THE HISTORY OF SEXUALITY VOLUME 1: AN INTRODUCTION* (Robert Hurley trans., Pantheon Books 1978) (1976) [hereinafter HISTORY OF

the course of his intellectual life, and most prominently during his “genealogical period,”²² Foucault conceptualized several different movements of power coursing through modern society, from sovereign power,²³ disciplinary power,²⁴ pastoral power,²⁵ and governmentality,²⁶ to biopower.²⁷ In his then radically new account of power, Foucault instructed that power is not something that is possessed or acquired as a thing in itself, but rather power is a force that is exercised in relationships between partners.²⁸ Moreover, Foucault underscored that power, while omnipresent across all domains of social life, is nevertheless waiting to be exercised and practiced in a specific field of relations.²⁹ That is, while power is an

SEXUALITY]; MICHEL FOUCAULT, DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON (Alan Sheridan trans., Vintage Books 2d ed. 1995) (1975) [hereinafter DISCIPLINE AND PUNISH]; MICHEL FOUCAULT, POWER/KNOWLEDGE: SELECTED INTERVIEWS & OTHER WRITINGS 1972-1977 (Colin Gordon ed., Colin Gordon et al. trans., Pantheon Books 1980) (1980) [hereinafter POWER/KNOWLEDGE]; MICHEL FOUCAULT, THE PUNITIVE SOCIETY: LECTURES AT THE COLLÈGE DE FRANCE 1972-1973 (Arnold I. Davidson ed., Graham Burchell trans., Palgrave Macmillan 2015) (2013) [hereinafter PUNITIVE SOCIETY]; MICHEL FOUCAULT, PENAL THEORIES AND INSTITUTIONS: LECTURES AT THE COLLÈGE DE FRANCE 1971-1972 (Arnold I. Davidson ed., Graham Burchell trans., Picador 2019) (2015).

22. Scholars consider Foucault’s genealogical period to encompass his works during the 1970s. See Cory Wimberly, *Moralities of Self-Renunciation and Obedience: The Later Foucault and Disciplinary Power Relations*, 55 PHIL. TODAY 37, 37 (2011).

23. For a discussion of sovereign power, see generally MICHEL FOUCAULT, PSYCHIATRIC POWER: LECTURES AT THE COLLÈGE DE FRANCE 1973-74 (Arnold I. Davidson ed., Graham Burchell trans., Palgrave Macmillan 2006) (2003).

24. For discussions of disciplinary power, see generally FOUCAULT, PUNITIVE SOCIETY, *supra* note 21, FOUCAULT, DISCIPLINE AND PUNISH, *supra* note 21, and FOUCAULT, POWER/KNOWLEDGE, *supra* note 21.

25. For a discussion of pastoral power, see generally MICHEL FOUCAULT, SECURITY, TERRITORY, POPULATION: LECTURES AT THE COLLÈGE DE FRANCE 1977-1978 (Arnold I. Davidson ed., Graham Burchell trans., Picador 2007) (2004) [hereinafter SECURITY, TERRITORY, POPULATION].

26. For discussions of governmental power, see generally *id.* and MICHEL FOUCAULT, THE BIRTH OF BIOPOLITICS: LECTURES AT THE COLLÈGE DE FRANCE 1978-79 (Arnold I. Davidson ed., Graham Burchell trans., Picador 2008) (2004) [hereinafter BIRTH OF BIOPOLITICS].

27. For discussions of biopower, see generally FOUCAULT, SECURITY, TERRITORY, POPULATION, *supra* note 25 and MICHEL FOUCAULT, “SOCIETY MUST BE DEFENDED”: LECTURES AT THE COLLÈGE DE FRANCE 1975-76 (Arnold I. Davidson ed., David Macey trans., Picador 2003) (1997).

28. See FOUCAULT, HISTORY OF SEXUALITY, *supra* note 21, at 94 (“Power is not something that is acquired, seized, or shared, something that one holds on to or allows to slip away; power is exercised from innumerable points, in the interplay of nonegalitarian and mobile relations.”); see also Michel Foucault, *The Subject and Power*, 8 CRITICAL INQUIRY 777, 786 (1982) [hereinafter *Subject and Power*] (explaining that the “[t]he term ‘power’ designates relationships between partners”).

29. See FOUCAULT, HISTORY OF SEXUALITY, *supra* note 21, at 93 (“Power is everywhere; not because it embraces everything, but because it comes from everywhere.”); see also *Subject and Power*, *supra* note 28, at 789 (“In effect, what defines a relationship of power is that it is a mode of

omnipresent force for Foucault, it exists only when it is put into action, famously describing this process of exercising power “as a mode of action upon the action of others.”³⁰

Here I draw upon Foucault’s framework of disciplinary power to analyze the relationships between creditors and debtors. First raised in a series of lectures in the early 1970s and arguably reaching its apex in his seminal work, *Discipline and Punish: The Birth of the Prison*,³¹ Foucault understood disciplinary power to operate at the capillary level, namely, as a micro-mechanism of power operating on individual bodies and minds.³² Disciplinary power is effectuated through technologies of power, namely, various techniques, practices, and “truth” discourses to correct, train, shape, and mold behaviors with the underlying aim of normalizing conduct, resulting in the construction of a certain individual subjectivity.³³ Foucault described technologies of power as a regime of practices “which determine the conduct of individuals and submit them to certain ends or domination, an objectivization of the subject.”³⁴ The result of this objectivization is the creation of what Foucault described as a “docile bod[y],” one that “may be subjected, used, transformed and improved.”³⁵ Indeed, law is one such technology of power.³⁶ Additionally, disciplinary power is accompanied by a “homogenous rule of morality” through which the elite pass judgment upon the behaviors and attitudes of the marginalized and “lesser” classes (e.g., the mad, criminals, and sexual deviants as studied by Foucault).³⁷

Disciplinary power draws attention to the acceptable norm by demarcating behavioral transgressions, noting acts of deviancy, and pointing

action which does not act directly and immediately on others. Instead, it acts upon their actions: an action upon an action, on existing actions or on those which may arise in the present or the future.”).

30. Foucault, *Subject and Power*, *supra* note 28, at 790.

31. FOUCAULT, *DISCIPLINE AND PUNISH*, *supra* note 21.

32. See FOUCAULT, *POWER/KNOWLEDGE*, *supra* note 21, at 98-107.

33. Foucault described that disciplinary power operates through hierarchical observations, normalizing judgments, and by calculating examinations. See FOUCAULT, *DISCIPLINE AND PUNISH*, *supra* note 21, at 170-94. Foucault consequently articulated that disciplinary power operates beyond walled institutions and throughout society more generally. See Michel Foucault, *Alternatives to the Prison: Dissemination or Decline of Social Control?* 26 *THEORY, CULTURE & SOC’Y* 12, 16 (2009).

34. Michel Foucault, *Technologies of the Self*, in *TECHNOLOGIES OF THE SELF: A SEMINAR WITH MICHEL FOUCAULT* 16, 18 (Luther H. Martin et al. eds., 1988).

35. FOUCAULT, *DISCIPLINE AND PUNISH*, *supra* note 21, at 136.

36. See FOUCAULT, *POWER/KNOWLEDGE*, *supra* note 21, at 141; see also Jacques de Ville, *Rethinking Power and Law: Foucault’s Society Must Be Defended*, 24 *INT’L J. FOR SEMIOTICS L.* 211, 218 (2011) (arguing that law is a vehicle for the exercise of disciplinary power).

37. MICHEL FOUCAULT, *MADNESS AND CIVILIZATION: A HISTORY OF INSANITY IN THE AGE OF REASON* 258 (Richard Howard trans., Vintage Books 1988) (1961).

out deficient conduct.³⁸ In this normalizing critique, “[e]verything is related to this general aim and everybody must relate to it, without ever meeting or attaining it,”³⁹ but it nevertheless “becomes possible to evaluate real actions and condone or reject [certain behaviors] to various degrees.”⁴⁰ Accordingly, “everybody is always in the process of stepping into character as a deviant who must be constantly re-socialized through micro-penalties, sanctions and rewards.”⁴¹ But what is the “norm” regarding the relationship between creditors and debtors in our current era of neoliberal financialized capitalism? As Foucault presciently described in his series of lectures titled, *The Birth of Biopolitics*, it is the neoliberal rational actor, namely, *homo economicus*, an active economic subject, an “entrepreneur of himself,” an individual who perfectly manages one’s own financial affairs with exacting knowledge set to maximize preferences and to enhance personal utility.⁴²

The prescriptive neoliberal discourse for how individuals and households should conform to *homo economicus* establishes the societal norm through which people are expected to manage their financial affairs responsibly; the failure to do so results in a devalued and deviant status. In this way, incurring debt can be understood as a form of disciplinary power creating subjectivities in which individuals and households are required to dutifully manage their debts and to repay them on time as responsible citizens.⁴³ Falling behind on debts—and sometimes filing for bankruptcy as a result—is “assumed to be caused by the failings of irresponsible, undisciplined and immoral debtors who made bad decisions.”⁴⁴ When this happens, technologies of power are deployed to correct these deviant behaviors and responsabilize debtors.⁴⁵

38. SVERRE FAFFNSØE ET AL., MICHEL FOUCAULT: A RESEARCH COMPANION 188 (2016).

39. *Id.* at 189.

40. *Id.*

41. *Id.*

42. FOUCAULT, BIRTH OF BIOPOLITICS, *supra* note 26, at 225-26; *see also* Mahmud, *supra* note 14, at 484 (arguing that the neoliberal financialization “calls forth a particular subjectivity by demanding that . . . individuals increasingly act as entrepreneurial investor subjects as part of a wider individualization of risk”).

43. *See* Ryan Davey, *Suspensory Indebtedness: Time, Morality and Power Asymmetry in Experiences of Consumer Debt*, 48 ECON. & SOC’Y 532, 533-34 (2019) (arguing that personal debt is a form of disciplinary power) (citing GUY STANDING, WORK AFTER GLOBALIZATION 213 (2009)); *see also* Tim Christiaens, *Financial Neoliberalism and Exclusion with and Beyond Foucault*, 36 THEORY, CULTURE & SOC’Y 95, 111 (2019) (“Debt regimes, for example, encourage promising entrepreneurs to take on risk and generate profitable futures, while disciplining the individuals who maintain less creditworthy lifestyles.”).

44. Sparkes, *supra* note 12, at 129 (citations omitted).

45. *See* Carl Walker, *Personal Debt, Cognitive Delinquency and Techniques of Governmentality: Neoliberal Constructions of Financial Inadequacy in the UK*, 22 J. CMTY. &

Disciplinary power is thus an analytical lens that allows us to examine the mechanisms of power on individual bodies at its localized centers,⁴⁶ an approach best suited for a qualitative research methodology. Qualitative research is a method of social science inquiry devoted to exploring the processes at play in society along with understanding how individuals interpret their lives, construct their social worlds, and attribute various meanings to their lived experiences.⁴⁷ More specifically, critical qualitative inquiry is devoted to uncovering dynamics of power and exploitation pulsing through interactional relations and mediated through institutions to mark individual lives,⁴⁸ thus making Foucauldian disciplinary power an appropriate framework for investigating the relations between creditors and debtors. Consequently, discovering power dynamics informed this study and influenced the subsequent analysis of the data.

As mentioned, the data reported here stem from a broader case study of a non-profit legal aid office located in a western state that assists individuals in filing for personal bankruptcy.⁴⁹ During 2022, I situated myself in the law office for approximately six hours per week and observed the staff attorneys counseling individuals seeking to potentially file for bankruptcy because of their debt problems. At the end of each initial counseling session that I observed, I invited individuals to participate in the study through a formal interview at a later mutually convenient date and time. Thirty-six individuals (including some married couples filing jointly) agreed to participate; the interviews ranged from thirty minutes to more than two hours. I followed a semi-structured interview format and compensated participants for their time.⁵⁰ All the interviews were audio recorded, professionally transcribed, and then reviewed for accuracy. As required by Institutional Review Board protocols and research ethics, pseudonyms have been used for the participants named in this Essay and identities have been changed. I utilized

APPLIED SOC. PSYCH. 533, 536 (2012) (contending that those who fail to financially self-regulate are subject to responsabilization strategies and practices) (citation omitted).

46. See FOUCAULT, POWER/KNOWLEDGE, *supra* note 21, at 199 (“Generally speaking I think one needs to look rather at how the great strategies of power encrust themselves and depend for their conditions of exercise on the level of the micro-relations of power.”).

47. SHARAN B. MERRIAM & ELIZABETH J. TISDELL, QUALITATIVE RESEARCH: A GUIDE TO DESIGN AND IMPLEMENTATION 6 (4th ed. 2016).

48. See Gaile S. Cannella, *Introduction to CRITICAL QUALITATIVE INQUIRY: FOUNDATIONS AND FUTURES* (Gaile S. Cannella et al. eds., 2015).

49. A case study is one traditional design for qualitative research providing an “in-depth description and analysis of a bounded system” that “investigates a contemporary phenomenon (the ‘case’) within its real-life context . . .” See MERRIAM & TISDELL, *supra* note 47, at 37.

50. See ALAN BRYMAN, SOCIAL RESEARCH METHODS 468 (5th ed. 2016).

thematic analysis as the data analysis strategy, seeking to discover common themes and patterns that emerged from the data.⁵¹

III. EMPIRICAL FINDINGS

The findings reported here suggest how technologies of power, both materially and psychologically, result in the subjectification of consumer debtors at the microlevel. This process coalesced around four major themes: (A) dealing with debt through reactive defensive material strategies; (B) incurring psychological or physical harm because of debt; (C) engaging in a moral self-accounting of past indebtedness; and (D) disclaiming a deviant debtor identity.

A. *Dealing with Debt Reactively*

When debtors fall behind in their repayment obligations, the law provides creditors with an arsenal of tools to coerce repayment. Creditors are sanctioned to send collection letters to debtors, call debtors frequently, file civil lawsuits seeking judgment, and once obtained, they turn to the state for assistance in levying upon personal property, real estate, and garnishing wages and bank accounts.⁵² All the participants interviewed for the study experienced one or more forms of pressure from creditors to repay debts once they had fallen behind.⁵³ The lived experiences of debtors demonstrate that unmanageable debt is experienced in two distinct, but interrelated ways. First, the pressure placed upon debtors flowing from their creditors' legal rights prompted most debtors to engage in several different defensive strategies to deal with their inability to repay debts. Second, dealing with unmanageable debt caused both psychic and physical harm to debtors in their efforts to address their creditors' demands.

Lacking the ability to pay back their debts, debtors relied on various defensive strategies to juggle these obligations while trying to maintain daily life; doing so was explained as a mode of survival, "just living month to month."⁵⁴ This mindset is typified by David, a middle-aged male who

51. See VIRGINIA BRAUN & VICTORIA CLARKE, THEMATIC ANALYSIS: A PRACTICAL GUIDE 4-6 (2022) (describing the basics of thematic analysis); see also JOHN W. CRESWELL, QUALITATIVE INQUIRY & RESEARCH DESIGN: CHOOSING AMONG FIVE APPROACHES 47 (3rd ed. 2013) (describing qualitative research as emergent in design).

52. See Diann C. Moorman & Steven Garasky, *Consumer Debt Repayment Behavior as a Precursor to Bankruptcy*, 29 J. FAM. & ECON. ISSUES 219, 220 (2008) (describing creditor collecting techniques).

53. See Michael D. Sousa, *Legal Aid Office Bankruptcy Case Study* (2022) (confidential study) (on file with author).

54. *Id.*

described his life managing his debts as just “being able to survive because it seems like every time you think you’re getting ahead, something happens, and you just don’t.”⁵⁵ Participants reported engaging in daily behavioral avoidance strategies, such as refusing to answer their phones, hiding away any mail they believed came from creditors, wishing that their creditors would “just go away,” and foregoing needed medical care out of concern for “making more debt when I already have tons of debt.”⁵⁶ For example, Lisa, a thirty-something participant, described her attempts to avoid collection calls in the following way: “But then I tried to start just putting them on an auto reject so that it just goes to voicemail, and they just can’t call my phone. But then they started calling some others and it’s just like this constant battle and people harassing you.”⁵⁷

Lisa was not the only participant to interpret her experiences in terms of doing battle, and many also expressed living in a constant state of fear “that they’re [creditors] going to end up garnishing your wages.”⁵⁸ You come home and there’s a sticky note on your door that says we tried to deliver a certified letter to you.”⁵⁹ Other participants described their experiences with managing debt as a “vicious cycle” of paying monthly bills from their wages but then needing to rely once again on credit at the start of the next month due to a lack of funds.⁶⁰ These individuals described this coercively imposed behavioral strategy as “robbing Peter to pay Paul.”⁶¹ In addition to juggling debts from month to month—and fighting a losing battle—other participants cut expenses and sold personal possessions to “just cut down to the bare essentials” to repay their creditors.⁶²

Beyond merely juggling bills and paying debts, some participants went to other extremes to deal with their financial problems.⁶³ Stuart, another middle-aged man, initially sold most of his possessions to start paying off the credit cards he used during several periods of unemployment.⁶⁴ When this strategy did not resolve his financial problems, Stuart began living in his car

55. *Id.*

56. *Id.* Past studies demonstrate that debtors often forego needed medical care due to their debt service obligations. See, e.g., Lucie Kalousova & Sarah A. Burgard, *Debt and Foregone Medical Care*, 54 J. HEALTH & SOC. BEHAV. 204, 215-16 (2013).

57. Sousa, *supra* note 53.

58. Sousa, *supra* note 53.

59. Sousa, *supra* note 53.

60. See Sousa, *supra* note 53.

61. This finding aligns with prior qualitative research on debtors. See Laura M. Tach & Sara Sternberg Greene, “Robbing Peter to Pay Paul”: *Economic and Cultural Explanations for How Lower-Income Families Manage Debt*, 61 SOCIAL PROBS. 1, 12 (2014).

62. See Sousa, *supra* note 53.

63. See Sousa, *supra* note 53.

64. See Sousa, *supra* note 53.

and had done so for at least one year prior to our meeting.⁶⁵ He described his efforts to me in this way: “[Y]ou think you’re doing the right thing and you’re doing the right thing, it’s just, it’s not enough. You don’t have enough options.”⁶⁶ Stuart’s reply not only underscores some of the drastic remedies that debtors will engage in when attempting to repay their debts, but also provides a small window into the way disciplinary debt reproduces inequality.

Other participants engaged in defensive behavioral strategies that paradoxically caused them to incur more debt while attempting to repay their existing debt obligations.⁶⁷ One participant reported taking out student loans to pay for daily living expenses and ongoing childcare payments.⁶⁸ Others turned to the easy credit of payday loans despite understanding the exorbitant interest rates charged by these lenders.⁶⁹ For example, in one perhaps extreme case, Margaret and Daniel, an elderly couple living on a fixed income, turned to payday loans for ongoing living expenses and for balancing debt payments to their existing creditors.⁷⁰ When we met, the couple had eleven outstanding payday loans from different lenders, each one collecting hundreds of percent interest with each passing week.⁷¹ When I asked them about their reliance on payday loans, Daniel simply shrugged and commented flatly, “[Y]ou gotta do what you got to do.”⁷² The use of extractive payday loans was not uncommon among participants and several others muddled through by relying on bank overdraft protection—and its accompanying high fees—to float finances in repaying both creditors and affording daily living expenses.⁷³ For example, Douglas, a middle-aged divorced man supporting young children, informed me that “I knew in my head I don’t have the money, but I’d go take out a couple of hundred dollars, they’re not going to bounce it. I’m going to get hit with bank fees, but I would just make things work.”⁷⁴ That is, until he could no longer “make it work” and finally sought bankruptcy to help him and his children climb out of the financial abyss.⁷⁵

65. See Sousa, *supra* note 53.

66. Sousa, *supra* note 53.

67. See Sousa, *supra* note 53.

68. See Sousa, *supra* note 53.

69. See Sousa, *supra* note 53.

70. See Sousa, *supra* note 53.

71. See Sousa, *supra* note 53.

72. Sousa, *supra* note 53.

73. See Sousa, *supra* note 53.

74. Sousa, *supra* note 53.

75. See Sousa, *supra* note 53.

B. Psychological and Physical Harms Due to Debt

In addition to various behavioral strategies imposed upon creditors as a form of objectivizing disciplinary power—namely, to coerce repayment and to realign debtors into meeting regular payment obligations—participants also conveyed a deep sense of how their indebtedness affected them psychologically and physically, offering how debt as disciplinary power impedes the most intimate aspects of private life.⁷⁶ Participants frequently reported about their depressive states, which interrupted daily functioning and affected relationships with their significant others.⁷⁷ For example, Robert, a middle-aged married man with a professional degree, described his own despair after pawning the family car, family heirlooms, and his children's personal belongings: "I didn't want to get up. I didn't want to do things. I had problems just getting up and getting dressed every day. The only reason I did was because the kids downstairs [needed] to have food."⁷⁸

Dealing with debt pressures contributed to stress, anxiety, and lost sleep, common conditions expressed by the participants.⁷⁹ Representative of these experiences are the words of Elizabeth, a married, middle-aged woman who eventually filed for bankruptcy together with her husband:

I think there's always stress involved when you realize that you don't have the funds to pay your bills. That's where the stress comes in. The depression I think comes from not seeing an end to this stressful situation. You just can't fathom that it's going to end, or you don't know how it's going to end. And you're just looking for some reprieve and . . . the longer it goes . . . that hope not only vanishes, the light [gets] dimmer and dimmer.⁸⁰

In addition to psychological suffering resulting from their debts, the disciplinary power of debt imposed physical harms to some participants' bodily health.⁸¹ Several participants reported a connection between their debt situations and their bodily well-being.⁸² Julia, a thirty-something woman

76. See Sousa, *supra* note 53.

77. See Sousa, *supra* note 53.

78. Sousa, *supra* note 53.

79. Sousa, *supra* note 53. These findings corroborate past studies on the affective nature of unmanageable debt. See, e.g., Patricia Drentea, *Age, Debt and Anxiety*, 41 J. HEALTH & SOC. BEHAV. 437, 439 (2000); Elizabeth Sweet et al., *Embodied Neoliberalism: Epidemiology and the Lived Experience of Consumer Debt*, 48 INT'L J. HEALTH SERVS. 495, 500-01 (2018); Sarah Bridges & Richard Disney, *Debt and Depression*, 29 J. HEALTH ECON. 388, 389 (2010); Sarah Brown et al., *Debt and Distress: Evaluating the Psychological Cost of Credit*, 26 J. ECON. PSYCH. 642, 644-45, 647-48 (2005).

80. Sousa, *supra* note 53.

81. See Sousa, *supra* note 53.

82. See Sousa, *supra* note 53.

who sought bankruptcy assistance after a divorce left her without health insurance, remarked to me that her lingering medical debt began “snowballing with my health” as the stress of her indebtedness caused her asthma to get “really, really bad” for which she needed hospital visits and uninsured breathing treatments.⁸³ Julia believed that filing for bankruptcy would result in getting the weight of debt “off my shoulders,” which would, in turn, reduce her stress, leading to improved physical health.⁸⁴ Another participant, Jennifer, a married woman who filed bankruptcy with her husband due to staggering medical bills in light of inadequate health insurance, expressed her belief that relieving herself of debt would improve her fibromyalgia and decrease her accompanying bodily pains.⁸⁵

C. *Engaging in a Moral Self-Accounting of Past Indebtedness*

Once participants recognized the inescapability of their debts—and certainly after reaching the decision to consider bankruptcy—they engaged in what I describe as a process of “moral self-accounting” in assessing their senses of self and their deviant financial behaviors. These acts of moral self-accounting are another form of disciplinary power subjectifying individuals through their daily lives, and such practices link to the larger neoliberal discourses of personal responsibility and autonomy. More specifically, disciplinary power forces debtors to internalize how their own debt problems differed from the expected societal norm, and in doing so, subjectified them into a self-recognized deviant status. During the interviews with participants, expressions of guilt, shame, and the stigma associated with indebtedness and bankruptcy were prominent.⁸⁶ Feelings of guilt and shame arise as individuals view themselves negatively for the violation of generalized moral codes held by the larger society.⁸⁷ As Sweet, DuBois, and Stanley similarly uncovered, “feelings of shame and failure” and “the internalization of personal responsibility narratives . . . are deeply embedded in neoliberal ideology” and thus play a powerful role in the subjectification of consumer debtors.⁸⁸ Participants expressed deep feelings of personal shame for failing to live up to the ideal of an autonomous and responsible user of credit.⁸⁹

83. See Sousa, *supra* note 53.

84. See Sousa, *supra* note 53.

85. See Sousa, *supra* note 53.

86. See Sousa, *supra* note 53.

87. Thomas J. Scheff, *Shame in Self and Society*, 26 *SYMBOLIC INTERACTION* 239, 254 (2003); see also James M. Jasper, *Emotions and Social Movements: Twenty Years of Theory and Research*, 37 *ANN. REV. SOCIO.* 285, 286 (2011) (describing shame as the violation of “a shared moral code”).

88. Sweet et al., *supra* note 79, at 504.

89. See Sousa, *supra* note 53.

Participants commonly described their indebtedness and filing for bankruptcy as a distressing experience, using phrases such as “this is the lowest it has ever been in my life,” “the most depressing thing on the planet,” and “embarrassed to have to come here and do what we’re doing.”⁹⁰ For example, when I asked Rachel, a woman in her late twenties and recently divorced, what her inability to repay her debts and filing bankruptcy meant to her, she commented as follows:

To me it’s a disgrace. That’s how I feel about it. ‘Cause I’ve always been able to financially take care of myself and when I was married it was really easy for me ‘cause there’s two incomes. I feel it proves that I’m a loser, that I haven’t done things right . . .⁹¹

Like Rachel, one married couple specifically mentioned “society’s opinion” when it came to their failure to repay their debts, commenting that the stigma around it and bankruptcy are “equal to welfare” and represents “taking no responsibility for your debt.”⁹² Still other participants expressed feeling like a “bad person” for not repaying their debts and one exemplified this moral self-accounting by commenting how responsible individuals repay their debts, noting soberly, “for most of my adult life, I’ve lived within my means.”⁹³ These few illustrations demonstrate the ways in which neoliberal discourse is internalized by debtors and manifested in a form of disciplinary power and subjectivity, causing them to measure their deviant financial statuses against the ideal of *homo economicus*. That is, participants internalized the shame and inferiority of being mired in debt and needing to file for bankruptcy.

Not all participants, however, viewed their debt problems as a moral failure. Some turned the neoliberal ideology of personal responsibility to their psychic advantage, allowing their moral self-accounting to be empowering rather than punishing. For example, one participant informed me that filing for bankruptcy to address her debts means that “I’m taking responsibility to do something, and I can start over, like not knowing there’s \$54,000 on my back that I have to pay off.”⁹⁴ Another participant expressed a similar sentiment: “I would rather take the responsibility of doing something [i.e., filing bankruptcy] to get out of some of my debt so I can take care of other things.”⁹⁵ For this subset of participants, bankruptcy allowed them to assert agency into their lives, leading them to think about bankruptcy

90. Sousa, *supra* note 53.

91. Sousa, *supra* note 53.

92. Sousa, *supra* note 53.

93. Sousa, *supra* note 53.

94. Sousa, *supra* note 53.

95. Sousa, *supra* note 53.

as a rebirth towards a new financially responsible self and to begin shedding a deviant status, albeit still a process of disciplined normativity in alignment with the grander neoliberal discourse of personal responsibility.

D. *Disclaiming a Deviant Debtor Status*

In addition to defensive strategies, incurring psychological and physical harm due to their debts, and engaging in a moral-self accounting in which participants generally described themselves in terms of failing to live up to the normative ideal, debtors also engaged in psychological interactional strategies in attempting to disclaim their deviant identities.⁹⁶ Sociologist Erving Goffman famously classified three generalized types of deviant statuses, namely, bodily abominations, “blemishes of individual character,” and traits linked to ethnicity, nationality, and religion.⁹⁷ Each of these constitutes a deviant status straying from societal normativity. Indeed, finding oneself with unmanageable debt and filing for bankruptcy is a blemish of individual character and a form of deviancy.⁹⁸

Individuals will frequently partake in various interactional strategies to disclaim their deviant identities, employing techniques of neutralization such as accounts,⁹⁹ disclaimers,¹⁰⁰ aligning actions,¹⁰¹ deviance avowal,¹⁰² or “identity work.”¹⁰³ Another strategy of salvaging a sense of self in the wake

96. Sousa, *supra* note 53. Deviance” is broadly defined as any act or condition that violates rules, norms, laws, or usual standards for behavior which result in negative reactions from others or from oneself. LIZABETH A. CRAWFORD & KATHERINE B. NOVAK, *INDIVIDUAL AND SOCIETY: SOCIOLOGICAL SOCIAL PSYCHOLOGY* 287 (2d ed. 2018).

97. ERVING GOFFMAN, *STIGMA: NOTES ON THE MANAGEMENT OF SPOILED IDENTITY* 4 (1963).

98. Michael D. Sousa, *Bankruptcy Stigma: A Socio-Legal Study*, 87 *AM. BANKR. L.J.* 435, 442 (2013); Terrell A. Hayes, *Labeling and the Adoption of a Deviant Status*, 31 *DEVIANT BEHAV.* 274, 277-78 (2010).

99. Marvin B. Scott & Stanford M. Lyman, *Accounts*, 33 *AM. SOCIO. REV.* 46, 46 (1968) (describing an account as “a statement made by a social actor to explain unanticipated or untoward behavior”).

100. John P. Hewitt & Randall Stokes, *Disclaimers*, 40 *AM. SOCIO. REV.* 1, 3 (1975) (defining a disclaimer as a “verbal device employed to ward off and defeat in advance doubts and negative typifications which may result from intended conduct”).

101. Randall Stokes & John P. Hewitt, *Aligning Actions*, 41 *AM. SOCIO. REV.* 838, 847-48 (1976) (“The key aspect of such aligning actions is that objectively deviant or problematic behavior is aligned with culture so as to legitimate the questionable conduct, affirm the rightness of the norms and maintain the course of joint action.”).

102. Ralph H. Turner, *Deviance Avowal as Neutralization of Commitment*, 19 *SOC. PROBS.* 308, 313 (1972) (describing the process of deviance avowal as either accepting or repudiating a deviant status).

103. David A. Snow & Leon Anderson, *Identity Work Among the Homeless: The Verbal Construction and Avowal of Personal Identities*, 92 *AM. J. SOCIO.* 1336, 1348 (1987) (defining

of a deviant status is for individuals to undertake “boundary work” to account for their present discredited identities. Boundary work occurs at the intersubjective level when people assert conceptual distinctions between themselves and others to justify their own actions and present themselves to others in a favorable light.¹⁰⁴ Individuals “position themselves morally by drawing boundaries” between themselves and hypothetical or anonymous “others.”¹⁰⁵

Utilizing boundary work to disclaim a deviant identity represents another technology of disciplinary power in which individuals account for their behaviors in a way that does not breach internalized social standards of responsible conduct. In this study, participants commonly engaged in boundary talk during our interviews to project themselves as a “deserving debtor” while generalizing other peoples’ debt situations—and bankruptcy filings—as undeserving.¹⁰⁶ As typologized by participants, deserving debtors are those whose debts are beyond their own control, such as medical debt, while undeserving debtors are those who incur irresponsible debt for luxury goods and expenses. Casting themselves as deserving debtors shows the internalization of the neoliberal discourse of personal responsibility and this disciplinary power forces them to think about themselves in morally appropriate ways.

For example, Scott and Debbie, a middle-aged married couple, explained that their debts arose from credit card use during periods of unemployment and for uncovered medical expenses.¹⁰⁷ When I asked them how they thought about their debts, Scott offered the following:

We are responsible for the debt we had. Medical, I feel that you were put in a situation that you had no control over. If we had used our credit cards, had Hawaii trips repeatedly on them or gambling expenses or jewelry, or TVs, all that stuff I would call irresponsibility because you’re spending money on non-necessity items. I don’t see it the same because I feel like one denotes irresponsibility and the other is more of a victim.¹⁰⁸

“identity work” as the “range of activities individuals engage in to create, present, and sustain personal identities that are congruent with and supportive of the self-concept”).

104. Malin Åkerström, *Slaps, Punches, Pinches—But Not Violence: Boundary-Work in Nursing Homes for the Elderly*, 25 *SYMBOLIC INTERACTION* 515, 517 (2002) (“Boundary-work is the efforts of demarcation in which people become involved, to distinguish and separate activities, phenomena, objects, conditions, or people from each other.”).

105. Eivind G. Fjær et al., *“I’m Not One of Those Girls”: Boundary-Work and the Sexual Double Standard in a Liberal Hookup Context*, 29 *GENDER & SOC’Y* 960, 963 (2015) (citation omitted).

106. See Sousa, *supra* note 53.

107. See Sousa, *supra* note 53.

108. Sousa, *supra* note 53.

By framing his situation in this manner, Scott demarcates his behavior from the mythologized undeserving debtor who spends money irresponsibly on material items whereas he is “more of a victim” because the couple’s debts were beyond their ability to control. In this way, Scott can disclaim his deviant identity because his debt problems were not of his own making, letting him separate himself from immoral debtors and align with the normative ideal of a prudent and responsible financial actor. Another couple in the study expressed a similar sentiment, informing me that it would be important for them if someone asked why they needed to file for bankruptcy so they could explain that we “weren’t just out spending on credit cards and buying . . . stuff.”¹⁰⁹ [We] didn’t take a joy ride or a vacation with [our] credit cards. Most people do.”¹¹⁰

A third couple engaged in this form of boundary work by describing their debt situation—and filing for bankruptcy as a result—in the following way:

Because we’re not the kind of people that want to do this and there are people out there that want to do this. They don’t care about going to Wal-Mart or going somewhere and buying a stereo and a TV and then filing We’re not like that. We’re not out to beat the system, we’re good people. We don’t want to be in that category as far as being with the bad people.¹¹¹

Most participants described their credit behaviors as “trying to be responsible” and “not being irresponsible, just frivolously spending money expecting to just not pay it and get away with it.”¹¹² In similar fashion, a final example of participant attempts at disclaiming a deviant identity through boundary work are the words of Melissa, a middle-age single woman, who when describing her own problems with debt claimed to “never maxed out any of my credit cards, I always paid everything on time, but some people don’t care about that. Some people are like, whatever, I got the credit now, some people are in the here and now and those people can’t be helped.”¹¹³

The drawing of boundaries by some participants between themselves as responsible, deserving debtors against a mass of undeserving, immoral debtors shows the constitutive element of disciplinary power producing a form of subjectivity. By presenting themselves as deserving debtors, participants construct their behaviors to align with the entrepreneurial model through which they remained responsabilized, morally good citizens in the

109. See Sousa, *supra* note 53.

110. Sousa, *supra* note 53.

111. Sousa, *supra* note 53.

112. Sousa, *supra* note 53.

113. Sousa, *supra* note 53.

utilization of credit and the incurrence of debt despite their need to file for bankruptcy to extract themselves from their financial problems.

V. CONCLUSION

Neoliberal discourse demands that people act prudently and responsibly in their financial affairs. But given the reality of our credit-driven economy, it is simply impracticable for individuals and households to find equilibrium when debt becomes the answer to precarious lives and financial instability.¹¹⁴ For those who cannot manage their debts and fail to comport with the entrepreneurial model, they are met with a host of disciplinary technologies of power that serve as micro-penalties for their transgressions.

The findings from this study uncover various strategies debtors engage in to deal with their debts and shield themselves from the various collection techniques creditors assert in demanding repayment.¹¹⁵ Additionally, indebtedness results in psychological harm and physical punishment as debtors experience constant stress, anxiety, and pain as they grapple with their creditors' demands. Finally, debtors also experience the subjectification of indebtedness as they undergo identity management strategies that serve to align themselves with the dominant discourse of individual financial responsibility and avoid the stigma surrounding financial failure and bankruptcy. This discourse produces a social normativity regarding problem debt that is interiorized by individuals. As demonstrated by this study, the formation of subjectivity through the disciplinary power of debt involves multiple processes where coercive technologies of power are complemented by techniques in "which the self is constructed or modified by himself."¹¹⁶ In other words, debt as disciplinary power is both normalizing and correcting, leading wayward individuals to re-center themselves as future responsabilized consumers of personal debt in the credit marketplace once their sojourns through bankruptcy end.

114. Mark A. Davidson, *Is Liberalism Drowning in Debt? The Impact of Private Debt on Individual Liberty*, 19 J. POVERTY & SOC. JUST. 263, 267 (2011).

115. See Sousa, *supra* note 53.

116. Michel Foucault & Mark Blasius, *About the Beginning of the Hermeneutics of the Self: Two Lectures at Dartmouth*, in 21 POL. THEORY 198, 204 (1993).