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I Household Debt and Race

Credit Markets and Race In the following, I will sketch the debates about racial discrimination in lending markets from the 1960s to the subprime-lending crisis. The centrality of homeownership in the American dream and the wealth-building effects that are commonly attributed to it made racial discrepancies in mortgage lending a central concern. While the debate has undergone considerable changes, the key opposition that structures the debate has remained remarkably stable and revolves around the question whether racial discrepancies in lending (both prior and after the rise of subprime) 'merely' reflect pre-existing economic discrepancies or whether lenders exacerbate existing inequalities by discriminating against minority borrowers or redlining minority neighborhoods. Initially, the key concern was an observed racial discrepancy in the acceptance rate for credit applications by would-be minority borrowers. Studies persistently found racial discrepancies in mortgage lending but were hampered by lacking basic information about the quality of the loans under consideration (credit history, LTV, income, employment history) (Black, Schweitzer, and Mandell 1978, Maddala and Trost 1982). In other words, these studies could not control for the criteria typically used in mortgage loan underwriting. The well known and controversial Boston Fed study sought to remedy this by examining rejection rates while controlling for credit history, loan terms, home and neighborhood attributes (Munnell et al. 1996). It found an 8 percent point difference in the rejection rates for minority applicants as compared to white applicants. Despite their efforts to control for the relevant criteria, the Boston Fed's study quickly became the object of a heated controversy. Critics alleged that the racial discrepancy could be explained by mortgage evaluation criteria that had been omitted in the study (Day and Liebowitz 1998, Rachlis and Yezer 1993). Subsequent attempts to reanalyze the Boston Fed data have largely vindicated their findings, however (Carr and Megbolugbe 1993, Glennon and Stengel 1994, Ross and Yinger 1999).

The advent of laxer underwriting standards and risk-adjusted credit pricing in the mortgage market during the early 90s was initially greeted by some as a potential remedy for the problems of exclusion from mortgage capital (cf. Wyly and Holloway 1999). However, the initial hopes for subprime lending as a way to ensure access for those previously excluded from the credit markets quickly evaporated. Fair lending advocates and institutions were the first to cast doubt on the supposed inclusive virtues of high-cost, risk-adjusted credit pricing when it became clear that subprime lending was disproportionally concentrated in subprime neighborhoods (Center 1999, HUD 2000, Immergluck 1999). As scholars began to explore the new configuration of the problem, the old opposition that had structured the debate re-emerged. On the one hand, there were those that saw subprime lending as a rational and efficient market response to a segment of risky borrowers (Fender and Mitchell 2005, Partnoy and Skeel Jr 2006). On the other hand, there were those who argued that criteria considered in the underwriting standards could not, in and of themselves, explain the full extent of the racial discrepancies (Immergluck 2000, Mae 2001, Mac 1996, ACORN 2004, Engel and McCoy 2002, Bradford 2002, Calem, Hershaff, and Wachter 2004, Courchane, Surette, and Zorn 2004, White 2004, Wachter, Russo, and Hershaff 2006, Bayer, Ferreira, and Ross 2014, Newman and Wyly 2004, Been, Ellen, and Madar 2009, Hyra et al. 2013). Due to data constraints that have made it nearly impossible to control for all criteria that go into a lending decision, consensus has proven elusive for a long time. This has left findings of racial discrepancies in subprime lending vulnerable to the charge that these discrepancies would be eliminated if all relevant variables (i.e. all criteria considered in an underwriting decision) were taken into consideration. Initial studies controlled only for borrower and/or median neighborhood income (HUD 2000, ACORN 2004, Bunce et al. 2000, Bradford 2002). Subsequent studies controlled for borrower credit score and/or median neighborhood credit score (Wachter, Russo, and Hershaff 2006, Courchane, Surette, and Zorn 2004). However, increasingly sophisticated studies have managed to control for a wider array of individual risk factors, such as loan to value ratios, credit score, income, presence of subordinate liens, housing and debt expenses to income ratios as well as neighborhood risk factors, such as neighborhood median income and credit scores and home value appreciation rates levels by diversifying their data sources (Pennington-Cross, Yezer, and Nichols 2000, Nichols, Pennington-Cross, and Yezer 2005) (Calem, Hershaff, and Wachter 2004, Bayer, Ferreira, and Ross 2014). Consequently, a widely (if not universally shared) consensus has emerged that racial discrepancies in lending—including the disproportionate share of subprime mortgage capital in minority neighborhoods—cannot be accounted for solely in terms of pre-existing neighborhood or borrower risk. The most common explanation for the persistent racial discrepancies in mortgage lending is that subprime mortgage lenders exploited existing information asymmetries, market barriers and structural vulnerabilities. These include factors that substantially restrict access to prime mortgage capital, such as low market penetration by mainstream banks and general difficulties in accessing mainstream banking (Engel and McCoy 2002, Ding et al. 2008) and differential search behavior (Mae 2001, Pennington-Cross, Yezer, and Nichols 2000). Structural vulnerabilities here refer to those aspects that make a particular group of borrowers or a particular neighborhood more vulnerable to predatory lending schemes. These include levels of education (Crossney 2010), high levels of home-rich, cash-poor households and (expected) lack of regulatory oversight. These explanations are supported by observations that lack of access to conventional credit, lower levels educational levels, regulatory laxity and high levels of home-rich, cash-poor households tend to coincide with higher levels of subprime lending. However, as Rugh and Massey (2015) remark, we know surprisingly little about the mechanisms behind these phenomena (Rugh, Albright, and Massey 2015, 186). In other words, while it seems plausible to attribute these correlations to industry strategy, there is relatively little research that illustrates how such a strategy becomes both possible and plausible.

Credit Markets and Labor Markets The use of credit scores as a general tool to determine trustworthiness has become widespread over the last decades. Critics have argued that the widespread use of credit scores in hiring decisions hampers the integration of marginalized populations into the labor market, given that economically marginalized populations, often unbanked, have relatively few chances to build up good credit. The fact that African Americans and Hispanics are overrepresented amongst those that have very low credit scores has sparked a debate about the labor market implications of the widespread use of credit scores (2005, Arnoldy 2007, Concepcion Jr 2009, Fellowes 2006).

II Education and the Racial Debt Gap

The following section considers two different aspects of the relation between education, debt and race. The first, and presumably more straightforward, is to consider the relation between education and household debt across different demographics. The second is to consider the more complex relation between publicly funded education, state/municipal deficits and race.

Student Debt, Education and Race While costs for college and postsecondary education have exploded, traditional avenues of funding have not kept up. Findings suggests that government divestment in higher education places a particularly heavy financial burden on African American and Hispanic students (Elliott and Friedline 2013). Studies have found a persistent racial gap in the levels of student debt. Overall, African American and Hispanic students have both a higher likelihood to borrow during their studies (Houle 2014; Huelsman 2015; Jackson and Reynolds 2013) and accrue more debt than their white counterparts, both for undergraduate and graduate degrees, while Asian Americans borrow slightly less (Belasco, Trivette, and Webber 2014, Price 2004). Addo, Houle, and Simon looking at the white/black debt gap in particular, suggest that the racial debt gap reflects "differences in parental wealth, postsecondary experiences, young adult social and economic outcomes, and (though we cannot measure it) discrimination" (Addo, Houle, and Simon 2016). They argue that the same levels of parental wealth are less effective in protecting African American students from high levels of student debt in comparison to similarly situated white students. Addo, Houle and Simon speculate that this is "because wealthy black families possess forms for wealth that are less transferrable from parents to children" (i.e. lower home equity and financial assets). The racial debt gap is compounded by racial differences in post-secondary education. African American students disproportionally attend underfunded and for profit institutions—linking higher household debt amongst African American students back to policies of government divestment in higher education (Cellini and Goldin 2012, Ruch 2001). Higher levels of student debt amongst African American and Hispanic students have been shown to have adverse effects on acquiring homes, investment in markets and entrepreneurial activity in later life (Baum and O'Malley 2003, Brint and Rotondi 2008, La Mort 2010).

Public disinvestment in education There is a well-established literature on state and municipal disinvestment in the public school system, as well as on the neoliberal restructuring of the public school system, which involves both restructuring curricula and extensive privatization. A few scholars have noted the role that the fiscal crisis has played in facilitating transformations that have had an adverse effect on low-income minority populations (Lipman 2011, 2013, 2015). Lipman, for examples, shows how the fiscal crisis enabled "venture philanthropists" to experiment with market-based forms of education in Chicago, New Orleans and New York. She argues that such 'innovative' educational agendas have disenfranchised inner city African American and Hispanic students in particular, silenced the voices of their parents and disempowered teachers' unions (Lipman 2015). But the fiscal crises in public education in Detroit or Chicago also show that this does not exhaust the complex and variegated relation between the fiscal crisis, education and race. For example, white flight and the subsequent erosion of the municipal tax basis clearly played a part in producing the fiscal crises in the Detroit public school system (Hammer 2011, 134ff).[1] In addition to focusing on the impact of fiscal crises on education politics, one must therefore also account for the racial inflection of the social forces that produced the fiscal crises in the first place (see next section).

[1] Hammer makes the point that the Detroit Public School System first issued deficit bonds in the early 1970s, when white residents actively sought to limit the funding available to integrated schools. Deficit bonds were funded through higher property taxes, which, after the erosion of the tax basis, a fall in housing prices and Detroit's economic decline soon proved unsustainable.

III Fiscal Crises, Austerity and Welfare Retrenchment

The twin phenomenon of welfare retrenchment and an expanding punitive state, and its impact on marginalized, racialized populations has been well documented. A number of scholars have emphasized the connection between welfare retrenchment and appeals for fiscal responsibility (Brewer 2012).[2] The looming specter of fiscal crisis, it is argued, is often used in order to justify large cuts in social services and welfare programs. It is possible to identify two interlinked, but analytically distinguishable aspects of the relation between fiscal crises, welfare retrenchment and race if one conceptualizes fiscal crises as socially constructed in a double sense: not only are fiscal crises the product of social forces; their meaning is likewise socially constructed (Clarke and Newman 2010). When applied to the issue at hand, this means paying attention both to (i) the social and economic origins of fiscal crises as well as to (ii) the discursive construction of their meaning. In the following, I will briefly recap the literature that discusses (i) the racial inflection of the origins of fiscal crises and (ii) how welfare retrenchment of the state was fuelled by discourses that linked discursively racialized welfare programs to the specter of fiscal crisis.

The Origins of Fiscal Crises: The example of Detroit Detroit provides a good example for the racially inflected origins of municipal fiscal crises. Contemporary discussions of Detroit's woes are usually prefaced with a mention of white flight, the subsequent erosion of the tax basis, and the economic decline starting in the 1970s. While white flight relates to racial conflict in an obvious way, the deindustrialization of Detroit (and the entire Rust Belt) is less obviously connected to questions of race. And yet, there are a number of ways in which industrial flight in Detroit is clearly inflected by racially tinged developments—from the post-war redistribution of wealth from the industrial centers into private hands in the Sun Belt (Moreton 2009, 5, 88, 269), to the

[2] Brewer connects the rhetoric of fiscal responsibility to racially inflected discourses about "wasteful welfare spending". The analysis remains largely constative, however.

underexplored question what role racial conflict and the election of African American officials played in managerial decisions to relocate plants (Boyle 2001).[3]

Similarly, a more recent development—the devastation of Detroit during the subprime crisis—must be placed squarely in the context of the racially inflected politics around predatory lending, which were characterized by neglect of minority communities at best (Ashton 2010, Wyly et al. 2009). Concerns about subprime lenders targeting vulnerable minority communities surfaced early on in congressional hearings that examined the state of the lending industry, exercised oversight over regulatory agencies or dealt specifically with concerns regarding predatory lending practices. In spite of these early warnings, neither regulators nor federal policy makers effectively challenged the ability of subprime lenders to exploit pre-existing, racialized market segmentations. Instead, regulators were more likely to protect subprime lenders from 'overzealous' state legislative initiatives that sought to curb predatory lending; while federal policy makers proved remarkably reluctant to even problematize racial discrepancies in subprime lending.

The Meaning of Fiscal Crises: Welfare and Race Starting in the 1980s, racially inflected discourses radically shifted the contours of legitimate objects of government spending—away from spending on social services and welfare, and towards big spending on defense and the punitive arm of the state. Discursively racialized welfare programs were conceived as a form of irresponsible and unsustainable deficit spending (Crafton 2014, O'Connor 1998, Block 1987a, b), while exploding sovereign debt for defense purposes was legitimized in what Brenner has aptly called a "military Keynesianism for the rich" (Brenner 2002, 44, cf. Rothschild 1988). The origins of the fiscal crisis were discursively constructed as rooted in 'irresponsible' welfare spending for putatively equally irresponsible 'welfare queens', thus facilitating and rationalizing drastic welfare cuts (Block 1987a, Joe Soss 2003, Reese 2005), which came to shape the trajectory of welfare policies under Bush and Clinton (Crafton 2014, O'Connor 1998). In turn, the articulation of a link between implicitly or explicitly racialized welfare programs and

[3] Boyle offers a very good overview over the literature of Detroit's decline, but also stresses that the literature has omitted the question of what caused the relocation of the plants.

fiscal stress itself engendered a new landscape of fiscal responsibility. Clinton's '*devolution-revolution'* is a good example of how changes to the welfare system engender new fiscal imperatives. The *Personal Responsibility and Work Opportunity Reconciliation Act* (1996) ended federal entitlement to aid. Direct federal funds were replaced by block grants, which gave states more authority to make decisions about their welfare programs. Crucially, it also provided clear fiscal incentives to cut welfare programs, and use federal money for other budgetary concerns. Soss and others have shown that there is a correlation between the punitive and stingy nature of state welfare policies and the racial make-up of states (Soss et al. 2001, cf. Reese 2005, 163, Brock 2009, Rodgers, Beamer, and Payne 2008).

IV Criminal Justice Debt

Over the last three decades, the use of monetary sanctions in the legal system for felonies and misdemeanors has increased dramatically. "Inmates are increasingly saddled with many, even most, of the costs related to the process of convicting, detaining, and releasing them" (Plunkett 2013, 59). In the following, I will briefly discuss the topology of criminal justice debt, as well as recovery methods, and then move on to discuss the rise of legal financial obligations (LFOs, sometimes also referred to as CFOs: criminal financial obligations) in relation to pervasive budgetary crises on the state and municipal level.

Typology of Legal Financial Obligations[4]: There are three categories of criminal justice related debt: (1) Fines and assessments that are levied with a punitive purpose, (2) penalties levied with a restitution purpose, and (3) assessments levied by jails and other criminal justice agencies with a public cost-recovery purpose. The latter category includes (i) pre-conviction assessments, such as jail book-in fees, levied at the time of arrest, jail per diem fees and public defender application fees; (ii) post-conviction fees, such as presentence report fee that helps defray the cost of gathering information, public defender recoupment fees, residential fees and cost of prison housing; (iii) post-release

[4] Modeled on Levingston and Turetsky's concise and informative account of the different kinds of fees. For a more in-depth discussion of the array of fees levied, see (Logan and Wright 2014, 1186-1195).

fees, such as monthly supervision fees, i.e. parole and probation fees. In cases of non-custodial parents, debt for accumulated child support is often added to the mix—child support payments are often not suspended during time in prison (Levingston and Turetsky 2007).[5] For a good overview of the fees levied by different states, see (NPR 2014).

Recovery methods During incarceration, criminal financial obligations are often directly collected from an inmate's account. Effectively, they function as a hidden tax on the inmate's family members, who send money into the inmate's account (Levingston and Turetsky 2007). After incarceration, the methods of collection vary depending on the collection agencies. In some states, probation offices, and correctional facilities collect debts, in which case probation revocation and renewed incarceration are often deployed in cases of non-payment. In other states, county clerks or private companies take on the collection effort, in which case they have recourse to an "increasing array of civil tools" at their disposal (Harris, Evans, and Beckett 2010, 1759). Given the privatization of prisons and probation services, debt collection is increasingly outsourced to private companies (Aviram 2014, Albin-Lackey 2014).

Budgetary crises and offender based funding*:* At a time of fiscal stress*,* states have increasingly turned toward offender based funding. This aims to generate revenues through monetary sanctions and court-mandated fees that are used not only to defray criminal justice costs, but are often also go toward general budgetary crises (West 2013, Bannon, Nagrecha, and Diller 2010, Birckhead 2015, Katzenstein and Waller 2015, Logan and Wright 2014). In some cases, the volume of punitive fees seems motivated by an attempt to extract rent, wherever possible (Balko 2014, Ehrenfreund 2014, Hitt 2015). Katzenstein and Waller see in this system of generating revenue a "new kind of political power" that has moved away completely from any semblance of a welfare state, and towards rent extraction from its most vulnerable populations (Katzenstein and Waller 2015).

[5] For more general discussions of the link between incarceration and child support debt, see (Boggess, Price, and Rodriguez 2014, Carmon 2015, Goffman 2009, Meyer and Warren 2011, Solomon-Fears, Smith, and Berry 2012).

The fiscal impact on the state*:* It is tempting to see the increase in monetary sanctions and court-mandated fees as motivated by the necessities of fiscal crises, and it seems highly plausible that this is often the most proximate cause. However, the fiscal impact of an offender funded criminal justice system on the state is often negative (Diller 2010). Revenue generation through court fees imposes hidden costs, such as the cost of operationalizing collection of debts; and the additional costs that are generated through higher incarceration rates (due to incarceration for non-payment) (McLean and Thompson 2007, Bannon, Nagrecha, and Diller 2010, Birckhead 2015, Diller 2010, Union 2010). This suggests that it might be helpful to consider the move towards offender based funding as a part of the same development that is partially responsible for the fiscal crises motivating increased reliance on court-mandated fees in the first place—namely, a *de facto* redistributive project that combines a predatory relation to its most marginalized populations, often racialized, with upper and upper-middle class welfarism, through tax cuts and subsidies (cf. Mettler 2011).

The consequences of criminal justice debt*:* The rise in criminal justice debt has significant consequences for the reproduction of economic inequality in the United States. Harris, Evans and Beckett argue that legal financial obligations significantly exacerbate the stratification effects of the penal system in three main ways: Firstly, they depress the living standard of often already economically marginal families and force people to choose between necessary expenses (such as food, child support payments and bills) and their LFOs. Secondly, criminal justice debt creates long-term debt, which can lessen access to housing, employment and credit, as well as extend one's criminal status. Finally, criminal justice debt disrupts the lives of former inmates and their families by subjecting them to the threat of an arrest warrant in the case of non-payment (which itself can significantly constrain the range of activities that one can safely exercise; cf. (Goffman 2009)) (Harris, Evans, and Beckett 2010, Katzenstein and Waller 2015). Pointing out the historical parallels with post Civil War peonage, Birckhead argues that criminal justice debt "functions to maintain an economic caste system" (Birckhead 2015). Beyond direct economic consequences, criminal justice debt—insofar as it further raises incarceration rates, and extends the period of criminal status—also leads to more entrenched forms of disenfranchisement (Cammett 2012).

Further Research leads

- The rise of the debt buying industry and its social consequences. (Sobol 2014)
- Racial steering in bankruptcy cases (Braucher, Cohen, and Lawless 2012, Van Loo 2009)
- Debt, classification and data warehousing (how consumers get classified and the way this influences their access to credit/the cost of credit; the social consequences of these classification schemes for minorities; the racial undertones of some classificatory schemas).

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