SURVIVING ON THE FINANCIAL EDGE

Review of *Debt's Grip*: *Risk and Consumer Bankruptcy*
by Pamela Foohey, Robert Lawless & Deborah Thorne

by

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Introduction

Economic anxiety among Americans is high.[1] Recent data from the Federal Reserve indicates that Americans' financial well-being remains below pre-pandemic levels, particularly among the middle class, suggesting that the economic anxiety is well-founded.[2]

Financial precarity, the term used to describe individuals and households that live in a persistent state of financial insecurity, is widespread. Many lack stable and sufficient income to meet basic needs, such as housing, food, and healthcare, let alone deal with emergencies or save for the future.[3] People borrow to cover gaps in income or to weather a financial shock, such as sudden health problems or car repairs, incurring more expensive debt as their financial security weakens. Individuals and households typically put off filing for bankruptcy as long as possible, foregoing necessities such as car insurance and dental care to make ends meet.

Debt's Grip: Risk and Consumer Bankruptcy offers a compelling, data-driven examination of financial precarity among individuals and households in the United States.[4] The authors lead the Consumer Bankruptcy

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[1] Megan Brenan, *U.S. Economic Confidence Slightly Improved, Still Negative*, GALLUP (Jun. 24, 2025) https://news.gallup.com/poll/692045/economic-confidence-slightly-improved-negative.aspx (observing that according to recent polls, "[t]he plurality of Americans, 41%, rate current economic conditions as 'only fair,' while 31% think they are 'poor' and 27% 'excellent' or 'good.'").

[2] Federal Reserve Board, *Economic Well-Being of U.S. Households in 2024*, 5 (2025), https://www.federalreserve.gov/publications/files/2024-report-economic-well-being-us-households-202505.pdf ("Near the end of 2024, 73 percent of adults reported 'doing okay' financially (39 percent) or 'living comfortably' (34 percent). The rest reported either 'just getting by' (19 percent) or 'finding it difficult to get by' (8 percent). The 73 percent of adults doing okay financially or living comfortably . . . was down 5 percentage points from the recent high of 78 percent in 2021 (figure 1).").

[3] *See id.* at 3 (stating that only 63% of adults report having the emergency resources to cover a hypothetical $400 emergency expense).

[4] PAMELA FOOHEY, ROBERT M. LAWLESS & DEBORAH THORNE, DEBT'S GRIP: RISK AND

Project ("CBP"), an ongoing, long-term research project studying the people who file bankruptcy.[5] Building on forty years of research on consumer indebtedness,[6] the authors' groundbreaking book weaves empirical analysis with personal narratives from bankruptcy filers to reveal how the long-term shift of systemic risk onto individuals and households contributes to rising financial insecurity across the population.[7] The book is a clarion call for sweeping policy realignment in myriad areas, including healthcare, housing, transportation, employment, education, bankruptcy, and consumer lending.

This paper reviews the book's claims and key findings while contextualizing them in some of the existing research on consumer indebtedness. The literature in the consumer indebtedness field is deep, spanning decades and disciplines. As such, this book review does not claim to be comprehensive either in its discussion of the book or existing research. But it aims to engage with the book's approach and findings in a way that amplifies the relevant policy conversations, encouraging policymakers to consider how their work impacts the people they serve. This book review proceeds as follows. Part I provides a high-level overview of the CBP's expansive body of work on consumer indebtedness. Part II comments generally on *Debt's Grip*'s innovative interdisciplinary contribution to the field. Part III discusses the book's methodology. Part IV engages with some of its key findings. Part V articulates some thoughts on the role of bankruptcy empirical research in law reform efforts. Part VI concludes.

I. The Consumer Bankruptcy Project

The Consumer Bankruptcy Project, established in 1981, has been the leading provider of empirical research on consumer bankruptcy law and policy for the last forty years.[8] Much of the existing CBP literature has focused on consumer bankruptcy filers and the drivers of their bankruptcy

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CONSUMER BANKRUPTCY (Univ. Cal. Press 2025) [hereinafter DEBT'S GRIP].

[5] *See* CONSUMER BANKRUPTCY PROJECT, https://consumerbankruptcyproject.org/.

[6] *See infra* Section II (describing the CBP's body of research).

[7] DEBT'S GRIP, *supra* note 4, at 9 ("Our main focus in this book is what happens to individuals when risk remains privatized for decades. In drawing on stories of people's financial collapse, we necessarily discussed the place of bankruptcy law for people facing the consequences of shifting risk and explore the who or why of consumer bankruptcy. But at its core, Debt's Grip focuses on the structural reasons that households struggle financial in today's economy and society.").

[8] *CBP Publications*, CONSUMER BANKRUPTCY PROJECT, https://consumerbankruptcyproject.org/papers (describing the history of the CBP, identifying its co-investigators, and enumerating their publications).

cases using two primary data sources: bankruptcy court records and survey responses of bankruptcy filers.[9]

In 1989, the first CBP co-investigators published a pioneering empirical study of personal bankruptcy under the Bankruptcy Code.[10] *As We Forgive Our Debtors* studied the bankruptcy system and the people who filed for bankruptcy in 1981. Those authors' findings challenged widespread assumptions about the reasons people file for bankruptcy. *As We Forgive Our Debtors* dismantled the myth that bankruptcy individuals are financially irresponsible consumers seeking an easy escape from their debt obligations. That study revealed instead that many who file for bankruptcy are facing financial crises stemming from events like job loss, medical problems, or divorce.

The same CBP researchers expanded on *As We Forgive Our Debtors* to try to understand why so many American families faced financial hardship and published the results in a second book, *The Fragile Middle Class: Americans in Debt*.[11] Described at the time as "one of the most extensive empirical studies of consumer bankruptcy ever undertaken,"[12] *Fragile Middle Class* did not focus on the bankruptcy system or bankruptcy law. Instead, the investigators studied bankruptcy filers to learn about financial

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[9] *See, e.g.*, Pamela Foohey, Robert M. Lawless & Deborah Thorne, *Debt on the Ground: The Scholarly Discourse of Bankruptcy and Financial Precarity,* 20 ANN. REV. L. & SOC. SCI. 219, 222 (2024) [hereinafter Foohey et al., *Debt on the Ground*] ("The bulk of recent literature focusing on consumer bankruptcy filers in the United States investigates the contributors to people's bankruptcies, the characteristics of filers, people's decisions to file, chapter choice, and case outcomes."); Pamela Foohey, Robert Lawless & Deborah Thorne, *Portraits of Bankruptcy Filers*, 56 GA. L. REV. 573, 575 (2022) [hereinafter Foohey et al., *Portraits*] (describing who is using bankruptcy system based on CBP data from 2013 to 2019).

[10] TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, AS WE FORGIVE OUR DEBTORS: CONSUMER CREDIT IN AMERICA (Oxford Univ. Press 1989) [hereinafter AS WE FORGIVE]; *see also* Teresa A. Sullivan, Elizabeth Warren & Jay Lawrence Westbrook, *Folklore and Facts: A Preliminary Report from The Consumer Bankruptcy Project*, 60 AM. BANKR. L.J. 293 (1986).

[11] TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, THE FRAGILE MIDDLE CLASS: AMERICANS IN DEBT (2000) [hereinafter FRAGILE MIDDLE CLASS]. *See also* Teresa A. Sullivan, Elizabeth Warren & Jay Lawrence Westbrook, *Consumer Debtors Ten Years Later: A Financial Comparison of Consumer Bankrupts 1981–91*, 68 AM. BANKR. L.J. 121 (1994).

[12] Margaret Howard, *Bankruptcy Empiricism: Lighthouse Still No Good*, 17 BANKR. DEV. J. 425, 442 (2001) [hereinafter Howard, *Bankruptcy Empiricism*] (reviewing FRAGILE MIDDLE CLASS).

instability in society.[13] Using publicly available data from 2,400 bankruptcy cases filed in 1991 combined with the responses from a questionnaire sent to those filers,[14] these researchers sought to explain why individuals and households struggled financially in a period of economic prosperity.[15] Ultimately, they found that the problems that lead to bankruptcy are widespread. In particular, many in the middle class were plagued by too little income and too much debt, living just one financial shock away from collapse.[16] The findings in that second study were a "warning bell" about the financial fragility the American middle class.[17]

Subsequent CBP publications continued to focus on the financial struggles of the middle class.[18] For instance, *Broke: How Debt Bankrupts the Middle Class*, edited by former Congresswoman Katherine Porter, was published in 2012.[19] The book is a cohesive collection of essays that examines how growth in consumer debt has undermined financial security and prosperity in the middle class. More specifically, *Broke* explores, using CBP and other data, how the pursuit of traditional middle-class aspirations like higher education, homeownership, and entrepreneurship can lead to overwhelming debt and, ultimately, bankruptcy.

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[13] FRAGILE MIDDLE CLASS, *supra* note 11, at Preface, xiv.

[14] *See id*. The authors expanded the study to cases filed in 1991 in sixteen districts across five states: all the districts in Illinois, Pennsylvania, Texas, and California and two of the three districts in Tennessee. *See also* Teresa A. Sullivan, Elizabeth Warren & Jay Lawrence Westbrook, *Consumer Debtors Ten Years Later: A Financial Comparison of Consumer Bankrupts 1981–91*, 68 AM. BANKR. L.J. 121 (1994).

[15] FRAGILE MIDDLE CLASS, *supra* note 11, at Preface, xiv. Each chapter presents an in-depth discussion of different types of problems facing bankruptcy filers, such as unemployment and income loss, illness and injury, divorce, homeownership, and too much credit.

[16] *Id.* at 27 (finding that "[t]he people who file for bankruptcy are a cross-section of society, and bankruptcy is a middle-class phenomenon").

[17] *Id*. at 6 ("[B]ankrupt debtors comprise an early warning system for all Americans. They are a silent reminder that even the most secure family may be only a job loss, a medical problem, or an out-of-control credit card away from financial catastrophe.").

[18] *See, e.g.*, ELIZABETH WARREN & AMELIA WARREN TYAGI, THE TWO-INCOME TRAP: WHY MIDDLE-CLASS MOTHERS AND FATHERS ARE GOING BROKE (Basic Books 2003); Elizabeth Warren, *The Growing Threat to Middle Class Families*, 69 BROOK. L. REV. 401 (2004); Elizabeth Warren, *The New Economics of the American Family*, 12 AM. BANKR. INST. L. REV. 1 (2004); Elizabeth Warren, *Financial Collapse and Class Status: Who Goes Bankrupt?*, 41 OSGOODE HALL L.J. 115 (2003).

[19] BROKE: HOW DEBT BANKRUPTS THE MIDDLE CLASS (Katherine Porter ed.) (Stan. Univ. Press 2012).

In addition, other CBP researchers have published extensive empirical research about consumer bankruptcy—the people who file and the system itself—since the pioneering research reported in *As We Forgive Our Debtors*. The body of literature generated by CBP researchers spans many dimensions of consumer indebtedness, such as medical bankruptcy, homeownership, financial education, bankruptcy case outcomes, elderly bankruptcies, and more.[20]

The CBP empiricists understand that the data from bankruptcy cases and about the people who file them tell us as much about people's financial lives outside the bankruptcy system as inside it.[21] Certainly, their collective body of work yields insights into who files for bankruptcy and why, how those people fare in bankruptcy, and whether current bankruptcy laws are

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[20] *See, e.g.*, Sara Sternberg Greene, Parina Patel & Katherine Porter, *Cracking the Code: An Empirical Analysis of Bankruptcy Success*, 101 MINN. L. REV. 1031 (2017); John A.E. Pottow, *The Rise in Elderly Bankruptcy Filings and the Failure of U.S. Bankruptcy Law*, 19 ELDER L.J. 221 (2012); Melissa B. Jacoby, Daniel T. McCue & Eric S. Belsky, *In or Out of Mortgage Trouble? A Study of Bankrupt Homeowners*, 85 AM. BANKR. L.J. 291 (2011); Deborah Thorne & Katherine Porter, *Debtors' Assessments of Bankruptcy Financial Education*, in FINANCIAL DECISIONS ACROSS THE LIFESPAN (Douglas Lamdin ed., Springer 2010); Deborah Thorne, *Extreme Financial Strain: Emergent Chores, Gender Inequality, and Emotional Distress*, 31 J. FAMILY & ECON. ISSUES 185 (2010); Teresa A. Sullivan, Elizabeth Warren & Jay Lawrence Westbrook, *Less Stigma or More Financial Distress: An Empirical Analysis of the Extraordinary Increase in Bankruptcy Filings*, 59 STAN. L. REV. 213 (2010); Katherine Porter, *Life After Debt: Understanding the Credit Restraint of Bankruptcy Debtors*, 18 AM. BANKR. INST. L. REV. 1 (2010); Melissa B. Jacoby & Mirya R. Holman, *Managing Medical Bills on the Brink of Bankruptcy*, 10 YALE J. OF HEALTH POL., L. & ETHICS 239 (2010); Abbye Atkinson, *Race, Educational Loans & Bankruptcy*, 16 MICH. J. RACE & LAW 1 (2010); Ronald J. Mann & Katherine Porter, *Saving Up for Bankruptcy*, 98 GEO. L.J. 289 (2010); Dalié Jiménez, *The Distribution of Assets in Consumer Chapter 7 Bankruptcy Cases*, 83 AM. BANKR. L.J. 795 (2009); David U. Himmelstein, Deborah Thorne, Elizabeth Warren & Steffie Woolhandler, *Medical Bankruptcy in the United States, 2007: Results of a National Study*, 122 AMER. J. MED. 741 (2009); Deborah Thorne, Elizabeth Warren & Teresa A. Sullivan, *The Increasing Vulnerability of Older Americans: Evidence from the Bankruptcy Court*, 3 HARV. L. & POL. REV. 87 (2009); Katherine Porter, *The Debt Dilemma*, 106 MICH. L. REV. 1167 (2008); Robert M. Lawless, Angela K. Littwin, Katherine Porter, John A.E. Pottow, Deborah Thorne & Elizabeth Warren, *Did Bankruptcy Reform Fail? An Empirical Study of Consumer Debtors*, 82 AM. BANKR. L.J. 349 (2007).

[21] Foohey et al., *Portraits*, supra note 9, at 575–76 ("[T]he data available in bankruptcy court records provide a window into the economic stress on American families. The financial and other problems that people bring with them to bankruptcy courts may stem from systemic disparities in the economy and society. Understanding how these issues appear in the bankruptcy system will bring into sharper focus more effective loci for legal and policy changes.").

effective. But the data also shed light more broadly on the state of consumer indebtedness in the United States. While not all individuals facing financial hardship file for bankruptcy, the experiences and statistics derived from those who do offer valuable insights into the financial challenges facing Americans.

II. An Overview of *Debt's Grip*

Debt's Grip is the culmination of decades of interdisciplinary empirical study of the people who file bankruptcy. The book synthesizes and builds on much of the current CBP investigators' collective work about consumer indebtedness over the past decade.[22] Forty years after the CBP's first pathbreaking study of consumer bankruptcy filers, we learn that nothing and everything has changed.

Nothing has changed. Many of the precipitating factors for filing consumer bankruptcy track the CBP's initial studies.[23] As in past studies, *Debt's Grip* affirms that bankrupt individuals and households span demographics, representing a cross-section of households.[24] Moreover, life events, such as job loss and income declines, heath crisis and its associated medical expenses, and family dynamics continue to be prevalent contributors to financial struggles and bankruptcy cases.

And yet everything has changed. *Debt's Grip* explores the data and stories of bankruptcy filers through the lens of what Jacob Hacker calls "the great risk shift."[25] The term "risk shift" generally refers to the decades-long trend of transferring economic and social risks from the government and

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[22] *See* Foohey et al., *Debt on the Ground*, *supra* note 9, at 219; Foohey et al., *Portraits*, *supra* note 9, at 573; Pamela Foohey, Robert M. Lawless & Deborah Thorne, *Driven to Bankruptcy*, 55 WAKE FOREST L. REV. 287 (2020); Pamela Foohey, Robert M. Lawless, Deborah Thorne & Katherine Porter, *Graying of U.S. Bankruptcy: Fallout from Life in a Risk Society*, 90 SOCIO. INQUIRY 681 (2019), https://onlinelibrary.wiley.com/doi/10.1111/soin.12323; David U. Himmelstein, Pamela Foohey, Robert M. Lawless, Deborah Thorne & Steffie Woolhandler, *Medical Bankruptcy: Still Common Despite the Affordable Care Act*, 109 AM. J. OF PUB. HEALTH 431 (2019); Pamela Foohey, Robert M. Lawless, Deborah Thorne & Katherine Porter, *Life in the Sweatbox*, 94 NOTRE DAME L. REV. 219 (2018); Pamela Foohey, Robert M. Lawless, Deborah Thorne & Katherine Porter, *"No Money Down" Bankruptcy*, 90 S. CAL. L. Rev. 1055 (2017).

[23] *See infra* Section V.A (discussing the findings reported in *Debt's Grip* about the drivers of bankruptcy filings and how those drivers intersect with structural circumstances).

[24] DEBT'S GRIP, *supra* note 4, at 1.

[25] *Id.* at 4–5 (explaining the premise of JACOB S. HACKER, THE GREAT RISK SHIFT: THE NEW ECONOMIC INSECURITY AND THE DECLINE OF THE AMERICAN DREAM (2d ed. 2019)).

corporations to individuals, deteriorating the social safety net.[26] According to Hacker, this shift has occurred "across nearly all major facets of Americans' economic lives," changing how people survive.[27] Individuals have become increasingly responsible for managing their own retirement, healthcare expenses, and even career stability in a labor market that may not provide adequate income or job security.[28] *Debt's Grip* shows what happens to everyday people when the public and private sectors offload risk onto individuals and households while income inequality widens.[29]

Others legal scholars have engaged Hacker's literature on the "great risk shift" to varying degrees in their research about consumer indebtedness,[30] and in other contexts, such as retirement,[31] employment,[32]

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[26] Jacob S. Hacker, *Retirement Security: The Market Crisis, the "Great Risk Shift" and the Challenge for Our Nation*, 19 ELDER L.J. 1, 2–3 (2011).

[27] *Id.* at 3.

[28] *Id.*

[29] *See* DEBT'S GRIP, *supra* note 4, at 3.

[30] *See, e.g.*, PATRICIA A. MCCOY, SHARING RISK: THE PATH TO ECONOMIC WELL-BEING FOR ALL (Univ. Cal. Press 2025) (examining how society can share the financial risks individuals currently bear alone and making specific policy recommendations for achieving economic well-being through risk sharing) [hereinafter SHARING RISK]; Michael D. Sousa, *Consumer Bankruptcy & Capitalist Exploitation*, 42 AM. BANKR. INST. J. 16 (2023) (mentioning Hacker's the "Great Risk Shift" as a factor in people's financial precarity); Adam Levitin, *The Financial Inclusion Trilemma*, 41 YALE J. REG. 109, 162–163 (2024) (citing Hacker's *The Great Risk Shift* to support the proposition that "household solvency problems can only be addressed by secular changes in the economy that will result in greater income and lower expenses for households and greater savings rates that can provide cushion against unexpected expenses"); Abigail Faust, *Regulating Excessive Credit*, 2023 WIS. L. REV. 753, 762 (2023) (arguing for regulating excessive credit through bankruptcy law); Abbye Atkins, *Rethinking Credit as Social Provision*, 71 STAN. L. REV. 1093, 1120–26 (2019).

[31] *See, e.g.*, Goldburn P. Maynard, Jr. & Clinton G. Wallace, *Penalizing Precarity*, 123 MICH. L. REV. 423 (2024) (proposing retirement policy reforms "to eliminate the gap between hardship distribution rules and the imposition of early withdrawal penalties" that apply to 401(k) retirement plans).

[32] *See, e.g.*, Samuel Hull, *Work Disguised as Leisure, Leisure Disguised as Work: The Roots and Consequences of the Bifurcated Economy*, 34 YALE. J. L. & HUMAN. 303, 304 (2023) (citing *The Great Risk Shift* to describe changes over time in how people are employed).

health insurance,[33] and tax policies.[34] Often, Hacker's research plays a supporting role for these authors' primary claims. In *Debt's Grip*, however, Hacker's risk-shift paradigm occupies a featured role as the lens through which the authors examine bankruptcy debtors to better understand household financial precarity in the United States.

The authors use bankruptcy case data, qualitative accounts from individuals, and demographic analysis to show how the "systematic gutting" of the social safety net correlates with financial precarity in the United States.[35] According to the authors, persistent and pervasive financial struggles reflect public and private sector developments over the last forty years, which have shifted risk and responsibility from government and businesses to individuals.[36] The book's central claim is that structural changes over time to housing, education, employment, healthcare, transportation, and lending have placed the risk of economic uncertainty overwhelmingly on individuals, creating vulnerabilities that consumer bankruptcy law is inadequate to address.[37]

Debt's Grip begins with a primer on the nuts and bolts of consumer bankruptcy, including how consumers access the consumer bankruptcy system, and how the system functions from filing to discharge.[38] The book concludes by articulating the need for policy reform and proposing specific statutory changes that would address some of the challenges of the consumer bankruptcy system identified throughout the book.[39] In between, the book untangles, chapter by chapter, the circumstances that lead many to live in financial precarity before filing for bankruptcy.

The authors dissect financial precarity according to structural challenges posed by specific kinds of debt (housing, transportation, medical,

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[33] *See, e.g.*, Elizabeth Sepper & Lindsay F. Wiley, *The Religious Liberty Challenge to American-Style Social Insurance*, 58 U.C. DAVIS L. REV. 257 (2024) (arguing that escalating religious challenges to the Affordable Care Act ("ACA") are a new line of attack in the campaign against social insurance in the United States); Gabriel Scheffler, *The Ghosts of the Affordable Care Act*, 101 WASH. U. L. REV. 791 (2024).

[34] Vijay Raghavan, *The Case Against the Debt Tax*, 91 FORDHAM L. REV. 1849, 1887 (observing that legislative changes to the information reporting rules for canceled debt correlated with the "Great Risk Shift").

[35] DEBT'S GRIP, *supra* note 4, at 11, 18. ("This book is not about the bankruptcy system as such. Rather, it looks to the people who filed bankruptcy to illuminate what it means to live in financial precarity.").

[36] *Id.* at 55.

[37] *Id.*

[38] *See id.* at Chapter 1 (Filing Bankruptcy and the Bankruptcy System).

[39] *See id.* at Conclusion: Reforming Bankruptcy's Injustices.

education, etc.) and connected to specific financial and demographic data from bankruptcy cases. The authors tie the data of these debtors' collective circumstances to macro-level domestic policy and private sector shifts in the United States that have eliminated the social safety net while putting the lion share of risk on individuals. Throughout, filers' stories bring the cold facts and figures to life.

We learn that those who file bankruptcy often face extraordinary medical debt, job interruption or loss, declining income, and other financial shocks that harm their financial well-being. We learn that these bankrupt individuals and households use a range of strategies to try to catch up on their debts. They often incur additional unsecured debt, using the new debt to pay off old debts and for everyday expenses like medical care, groceries, and car repairs. Or they simply go without such necessities. Some take an additional job. They endure debt collectors. And we learn that they will struggle like this for years before they succumb to filing for bankruptcy, and even then, feel shame and guilt at having needed help. And we learn that certain populations—black households, single women with children, and the elderly—are particularly vulnerable to financial precarity because of the structural challenges inside and outside of bankruptcy.

III. Methodology

The Consumer Bankruptcy Project has been collecting and analyzing data from consumer bankruptcy cases for more than 40 years.[40] *Debt's Grip*, which reflects the CBP's most recent iteration, reports on publicly available data collected by the authors from electronic court records in 8,800 households that filed bankruptcy for the eleven-year-period between 2013 and 2023.[41] That data include financial information, such as assets, debts, income, expenses, and employment history.[42] The data also include whether the debtors received discharges or have their bankruptcy cases dismissed.[43]

Beyond that case-level data, the *Debt's Grip* authors surveyed the bankrupt households, asking for information "about their circumstances before and after filing, their money management techniques before bankruptcy, their reasons for filing, their interactions with their attorneys,

[40] *Id.* at 9.

[41] *Id.* For more specific details about methodology, refer to the Methodological Appendix that starts on page 231.

[42] *Id.*

[43] *Id.*

some basic health information, and their demographics."[44] The survey also collected demographic data not contained in the court records.[45] Such data included age, education, race, and cohabitation and marital status.[46] Finally, the survey provided people the opportunity to write about their financial struggles and decisions to file bankruptcy.[47]

Like its predecessor studies, the authors use data from bankrupt households to shine a light on the state of consumer indebtedness among U.S. households. But *Debt's Grip* is both broader and deeper than these previous studies.

The study is broader in that the dataset is more voluminous than some of the earlier studies thanks to easy remote access to digitally stored records of bankruptcy cases. It uses financial information from 8,800 bankruptcy cases over 11 years combined with survey responses from bankruptcy debtors that report demographic information and narratives about their prebankruptcy financial circumstances. Thus, the authors' claims and findings are built on a robust empirical foundation that effectively synthesizes quantitative and qualitative data. They quantify the hardships of Americans living in financial precarity with thorough and rigorous statistical analysis and then bring those collective hardships off the page with individual stories that demonstrate across demographics the pain and strain of living on the financial edge.

The study is deeper in its approach to understanding not just the precipitators of bankruptcy filings but also how the prebankruptcy circumstances of bankruptcy debtors are connected to the privatization of risk. The result is a multidimensional assessment of consumer indebtedness and financial precarity in the United States in the face of a deteriorating safety net. More than any other piece of bankruptcy scholarship thus far, it demonstrates how inextricably linked individual Americans' financial lives are tied to structural aspects of society.

IV. Key Findings

A. The Well-Trodden Paths to Bankruptcy

Bankruptcy exists to provide a fresh start for the "honest but

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[44] *Id.* at 10.
[45] *Id.*
[46] *Id.*
[47] *Id.*

unfortunate debtor."[48] But bankruptcy policymaking often focuses, incorrectly, on the notion that financially irresponsible debtors are using bankruptcy as a convenient off-ramp from the responsibility of paying their debts.[49] Such thoughts permeated legislative decisionmaking relating to student loan nondischargability.[50] In addition, the debates that lead to overhauls of the consumer bankruptcy laws in 2005 featured some version of these talking points.[51] The faulty premise is that financial insecurity stems only from individual choices.

Debt's Grip affirms what previous studies of the CBP have revealed about the contributing factors for bankruptcy cases. Most consumer bankruptcy filers have experienced one or more life events outside of their control that impede their ability to stay financially afloat and are catalysts for filing bankruptcy.[52] The leading financial causes of bankruptcy have been the same for decades and include income declines and medical debt.[53] Other common contributors include unemployment, foreclosure, repossession, and pressure from debt collectors.[54]

Debt's Grip treads newer ground by demonstrating that the causes of

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[48] Local Loan Co. v. Hunt, 292 U.S. 234, 244 (1934).

[49] *See, e.g.,* H.R. Rep. No. 109-31, pt. 1, at 3–4 (2005), reprinted in 2005 U.S.C.C.A.N. 90 (stating that consumer bankruptcy law reform was necessary to combat a "growing perception that bankruptcy relief may be too readily available and is sometimes used as a first resort, rather than a last resort.").

[50] *See, e.g.*, Rafael I. Pardo & Michelle R. Lacey, *Undue Hardship in the Bankruptcy Courts: An Empirical Assessment of the Discharge of Educational Debt*, 74 U. CIN. L. REV. 405, 419–24 (2005) (describing disagreement among legislators about whether statutory amendments making student loans nondischargable addressed real or imagined abuses of the federal student loan program).

[51] *See, e.g.*, Jean Braucher, *The Challenge to the Bench and Bar Presented by the 2005 Bankruptcy Act: Resistance Need Not Be Futile*, 2007 U. ILL. L. REV. 93, 96 n.16 (citing the stated legislative goal of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), to reduce abuse of the bankruptcy system by consumers); Susan Jensen, *A Legislative History of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*, 79 AM. BANKR. L.J. 485 (2005) (tracing the legislative developments that lead to passage of BAPCPA based on presumed consumer abuse of the bankruptcy system); Marianne B. Culhane & Michaela M. White, *Taking the New Consumer Bankruptcy Model for a Test Drive: Means-Testing Real Chapter 7 Debtors*, 7 AM. BANKR. INST. L. REV. 27, 28 (1999) (observing that the increase in consumer bankruptcy cases in the late 1990's persuaded "some that debtors are abusing the system by taking an 'easy out' instead of repaying creditors").

[52] *See* DEBT'S GRIP, *supra* note 4, Chapter 2 (Struggling to Survive).

[53] *Id.* at 37 ("The leading financial causes of bankruptcy have held constant for decades.").

[54] *See id.*

bankruptcy rarely arise in isolation.[55] Instead, the book reveals how multiple contributing factors—such as medical debt, job loss, and family instability—interact and compound with one another, all while being embedded in larger structural inequities.

1. Declining Incomes & Employment Conditions

Debt's Grip reports that income declines are a primary driver of bankruptcy filings. The study shows that 78% percent of responding filers indicated income declines contributed to their bankruptcy cases.[56] Decreased income is linked with unemployment and underemployment, which are also common contributors to bankruptcy cases.[57] Fluctuations in income and employment situations make it difficult for people to make ends meet.[58] Moreover, filers try to deal with these negative fluctuations through various coping strategies, such as by incurring additional debt to stay financially afloat, as explained below.[59]

The authors connect income declines, unemployment, and underemployment to long-term structural shifts in the U.S. labor market.[60] Since the 1970s, employment has become decidedly less stable.[61] Jobs in certain sectors have contracted, while growth has concentrated in industries that often require costly higher education.[62] The employer-employee relationship has also changed. Employers increasingly rely on part-time workers (who cost less in wages and benefits) and on gig-economy labor, classifying workers as independent contractors to avoid providing traditional benefits.[63] Even for full-time employees, benefits packages are leaner and less secure. Meanwhile, wages have failed to keep pace with inflation, and income inequality has widened.[64] These macroeconomic trends are largely beyond the control of individual workers, yet the financial consequences, which take the form of reduced earnings, limited benefits, and increased

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[55] *See also* Foohey et al., *Debt on the Ground*, *supra* note 9, at 222–23.

[56] DEBT'S GRIP, *supra* note 4, at 37.

[57] *Id*. at 37, 93 (reporting that 92% of unemployed households reported that a decline in income contributed to their bankruptcies, compared to 75% of employed households).

[58] *Id*. at 97.

[59] *See infra* Section IV.B.

[60] *See* DEBT'S GRIP, *supra* note 4, Chapter 5 (Staying Out of the Red).

[61] *Id.* at 91, 95.

[62] *Id.*

[63] *Id.* at 95.

[64] *Id.*

precarity, fall squarely on them.

2. Medical Debt & Related Costs

Medical debt also remains a significant contributor to bankruptcy cases. *Debt's Grip* identifies the role of the U.S. healthcare system as a source of "extraordinary" financial precarity in Americans' lives.[65] The authors describe the problem as structural, specifically, the complexity[66] and expense of the U.S. healthcare system.

Staying alive is expensive. Healthcare costs are astronomical in the United States, and those costs are borne largely by individuals. In 2023, health care spending in the United States reached $4.9 trillion, marking a 7.5% increase from the previous year. [67] Despite over 90% of Americans having health insurance, medical debt remains widespread. Collectively, adult Americans owed $220 billion in medical debts as of 2021, $88 billion of which is in collections and affects 20% of people in the United States.[68]

Debt's Grip explains that medical debt has long been a driver of bankruptcy both directly and indirectly.[69] The data show that 65% of bankruptcy filers identify medical costs as a contributing factor for filing bankruptcy.[70] Among those, 30% reported that "*only* medical expenses—doctor bills, hospital bills, prescriptions—were a reason" for their filing.[71] Twelve percent stated that only missing work, either to recover or to care for a recovering family member, was a reason for filing.[72] Overall, 57% indicated that both medical reasons and missing work contributed to their filings.[73]

Health insurance does not insulate households from medical

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[65] *Id.* at 76.

[66] *Id.* at 79–80 (describing how people in the United States obtain healthcare coverage through their employer, by buying it through the health insurance marketplace, or if they qualify, via a "patchwork" of public insurance programs).

[67] *National Health Expenditures 2023 Highlights*, CENTERS FOR MEDICARE AND MEDICAID STUDIES, , https://www.cms.gov/files/document/highlights.pdf (reporting the official estimates of total health care spending in the United States).

[68] *Medical Debt Burden in the United States*, CONSUMER FINANCIAL PROTECTION BUREAU, 2 (Feb. 2022), https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

[69] DEBT'S GRIP, *supra* note 4, at 76.

[70] *Id.* at 76–77.

[71] *Id.* at 77.

[72] *Id.*

[73] *Id.*

bankruptcy.[74] Since the Affordable Care Act ("ACA") went into effect in 2010, the number of uninsured Americans decreased by 15 million, but the number of medical bankruptcies has not declined.[75] An early study found no evidence that the ACA reduced the percentage of medical bankruptcies.[76] Before the ACA was implemented, 65.5% of debtors cited a medical contributor to their bankruptcy as compared to 67.5% in the three years after the ACA.[77] A different study's findings tentatively suggest that the ACA and increased access to health insurance lowers the risk for bankruptcy.[78] *Debt's Grip* reaffirms that even filers with health insurance can incur debts that exceed their ability to pay: high deductibles, co-pays, and out-of-pocket expenses can lead to overwhelming medical debt, especially for those with chronic illnesses or unexpected health crises.[79]

Some commentary contends that prior research, including CBP studies, has overstated the role of medical debt in bankruptcy filings.[80] Two primary critiques emerge of the earlier CBP studies. First, critics argue that reliance on self-reported survey data from bankruptcy filers may exaggerate the extent to which medical debt contributes to bankruptcy.[81] Second, they point to substantial variation in how researchers define "medical bankruptcy," including the use of dollar thresholds that may be too low to signify a meaningful financial burden.[82]

Debt's Grip reframes the discourse by emphasizing the interplay of medical debt, lost income, and job loss.[83] Lost income, either from missing work or job loss due to personal or household illness, is part of the cycle of financial precarity that leads to medical bankruptcy filers.[84] Medical

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[74] *See id.* at 79–82.

[75] *See* David Himmelstein et al., *Medical Bankruptcy: Still Common Despite the Affordable Care Act*, 109 AM. J. OF PUB. HEALTH 431 (2019).

[76] *See id.*

[77] *See id.*

[78] Philip M. Pendergast, Michael D. Sousa & Tim Wadsworth, *Health Insurance and Bankruptcy Risk: Examining the Impact of the Affordable Care Act*, 86 BROOK. L. REV. 975 (2021) (reporting preliminary findings that the Affordable Care Act and increased access to health insurance has lowered the risk of bankruptcy).

[79] *See* DEBT'S GRIP, *supra* note 4, at 79–82.

[80] Amy Landry & Robert Landry, *Medical Bankruptcy Reform: Fallacy of Composition*, 19 AM. BANKR. INST. L. REV. 151, 161–64 (2011) (agreeing that medical debts are a contributor to bankruptcy filings but disputing their "degree of influence").

[81] *Id.* at 163.

[82] *Id.* at 162.

[83] DEBT'S GRIP, *supra* note 4, at 76 (describing a medical bankruptcy as a "bankruptcy precipitated by either medical expenses or a loss of income due to illness or injury.").

[84] *See id.* at 82–84.

bankruptcy filers are more likely to lose income or even jobs and health insurance due to missing work.[85] Case-level data show these medical filers enter bankruptcy with financial profiles similar to nonmedical filers, but medical filers experience significant income declines during the two-year prebankruptcy period.[86]

Even after receiving a bankruptcy discharge, medically bankruptcy filers do not necessarily regain financial stability, especially those living with long-term, chronic health conditions.[87] For many, the same expenses and income disruptions that drove them into bankruptcy persist, and the cycle of financial precarity quickly begins anew. [88]

3. Asset Preservation

People often turn to bankruptcy to try to preserve their homes and cars, two key assets that are central not only to daily life but also to individuals' sense of economic stability and identity.[89] In *Debt's Grip,* across demographic groups, some debtors cited unaffordable mortgage payments and the threat of foreclosure as key factors precipitating their bankruptcy filings.[90] This is unsurprising. Homeownership is widely viewed as a hallmark of middle-class status and is "touted as a marker of financial security."[91] As *Debt's Grip* shows, the desire to retain one's home, along with the symbolic promise of having attained the American dream, shapes how people experience financial precarity and influences their decision to file bankruptcy.

Cars, while not wealth-building in the same way as homes, are also essential to daily survival. As the authors observe, people rely on cars to get to work, access childcare and health care, attend school, and perform countless other tasks critical to family and economic life.[92] According to *Debt's Grip*, 85% of bankruptcy filers own a vehicle, a rate consistent with the general population.[93] But cars are expensive, and most people finance

[85] *See id.*
[86] *See id.* at 79 & Table 4.1 (Financial Characteristics of Bankruptcy Filers, Medical and Nonmedical (Medians)).
[87] *See id.* at 86–87.
[88] *See id.*
[89] *See id*. at 62–72.
[90] *Id.* at 63.
[91] *Id.* at 61.
[92] *Id.* at 68.
[93] *Id.* at 56, 69.

them through loans.[94] *Debt's Grip* reports that between 2000 and 2023, car loan debt grew by 39%, and by 2020, it comprised roughly 9% of total household debt.[95] The authors identify the "paradox of car ownership," namely that reliable transportation is essential to avoid financial ruin, but car ownership itself exposes consumers, especially those with lower incomes, to default and repossession.[96]

Both homes and cars are thus central to the story of consumer bankruptcy, but they play different roles in households' economic lives. Homes are typically long-term assets that provide shelter and serve as a means of wealth accumulation through appreciation. Cars, in contrast, are functional assets that depreciate over time but offer vital access to economic opportunity, especially for low- and moderate-income households. Both require ongoing expenses for insurance, maintenance, and repairs, adding further financial strain. Given their dual role as major sources of debt and essential assets, it is not surprising that foreclosures and repossessions may lead to bankruptcy. Bankruptcy becomes not only a form of debt relief, but a last-ditch effort to hold onto the things that make stability and mobility possible in American life.

4. Debt Collectors

When people are struggling financially, debt collectors add to their burdens and anxieties. *Debt's Grip* reports that more than 75% of bankruptcy filers stated that pressure from debt collectors contributed to their eventual filings.[97] This particular data point aligns with previous studies about debt collection pressures.[98] In addition, the book's data suggests that "about four out of every five filers will come to bankruptcy after experiencing debt collection," whether arising out of formal process, such as a home foreclosure or personal property repossession, or informal collection activity.[99] Thus, our debt collection system is another structural problem that compounds household financial precarity. Despite some federal and state regulation, informal debt collection leaves people open to additional pressures that

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[94] *Id.* at 69–70.
[95] *Id.* at 69.
[96] *Id.* at 70.
[97] *Id.* at 53 and *see* Chapter 9 (Lawsuits and Debt Collectors) (explaining how debt collection forces people to seek bankruptcy relief).
[98] *Id.* at 192.
[99] *Id.* at 192–93 & Table 9.1 (Level of Debt Collection Activity Among Bankruptcy Filings).

exacerbate financial insecurity.

In summary, *Debt's Grip* draws a definitive line under the debates about the people who seek relief in the bankruptcy system. Individual bankruptcy filers are not reckless consumers spending beyond their means. Instead, the authors' data show that people's reasons for filing bankruptcy largely reflect the financial realities of navigating life events outside of their control. These events carry extreme financial ripple effects marked by declining income and increasing expenses combined with external pressure from debt collectors. Socioeconomic structural realities outside their control make their individual financial situations far worse across multiple dimensions of their lives.[100]

Without a safety net, people try to recover on their own. The next section engages with the authors' findings concerning how people struggle to mitigate financial distress before filing for bankruptcy, overextending themselves financially and otherwise.

B. Living on the (Prebankruptcy) Financial Edge

The truth about how people suffer financially before they file bankruptcy is sobering.[101] *Debt's Grip* reveals that people endure substantial hardship in their efforts to avoid filing for bankruptcy.[102] They struggle with their debts for years before they seek bankruptcy relief.[103] This prebankruptcy period of struggle is known as the financial "sweatbox."[104] The data indicate that 63% of filers are what the CBP calls "long strugglers," meaning "people who fought to make ends meet for at least two years."[105] Notably, "the percentage of filers who struggled for more than five years has ***doubled*** from

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[100] SHARING RISK, *supra* note 30, at 21 ("[I]n most cases, people's cash-flow problems are not their fault. Rather, powerful political and private interests off-loaded financial risk and dumped it onto workers over the past half-century. This occurred on multiple fronts . . . . Together, these actions amounted to a big power play that decimated the ability of ordinary families to make it through the month and achieve milestones such as college and a comfortable retirement.").

[101] *See* DEBT'S GRIP, *supra* note 4, Chapter 2 (Struggling to Survive).

[102] *See id.* at 54–55.

[103] *Id.* at 38–39 (including Table 2.1 Time Frames in Which Respondents Seriously Struggled with Debt Before Bankruptcy), 54–55.

[104] *Id.* at 36; *see also* Pamela Foohey, Robert M. Lawless, Deborah Thorne & Katherine Porter, *Life in the Sweatbox*, 94 NOTRE DAME L. REV. 219 n.1 (2018) (crediting Jay Westbrook with describing the time before a person files bankruptcy as the financial "sweatbox").

[105] DEBT'S GRIP, *supra* note 4, at 38–39.

13 to 26 percent since 2007."[106]

In the sweatbox, "[f]inancial precarity seemingly breeds more financial precarity."[107] *Debt's Grip* describes how people's financial problems compound as they go to great lengths to deal with their financial struggles on their own in the absence of other structural supports. Across the board, these "strugglers," both short and long, use a variety of coping strategies which increase the amount of debt they carry, deplete their assets, and require extensive privations.[108]

People borrow unsecured debt as a primary coping strategy, enabling them to pay for expenses during periods of instability.[109] To be sure, borrowing is part of the contemporary American way of life. Most people cannot own a home or even a car, obtain higher education or healthcare without incurring debt. But consumer credit has become more than a tool for consumption. It has emerged as a privatized substitute for social welfare.[110] People borrow to navigate financially uncertain periods in their lives, using unsecured credit as a "self-financed safety net."[111] They rely on credit cards, payday loans, and other forms of unsecured credit to manage income instability, health emergencies, and basic living expenses.

The findings in *Debt's Grip* reinforce earlier research on the use of unsecured debt as a copying strategy.[112] People reported relying on unsecured debt to make up for income gaps arising out of "job loss, underemployment, to try self-employment, and to pay for higher education."[113] Around two-thirds of filers turned to credit cards to make ends meet,[114] using them for essential expenses, likes groceries and gas, during periods of unemployment.[115] Others turned to high-cost, fringe lending productions like payday and car title loans.[116] People also borrowed from family and

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[106] *Id.* (emphasis added).

[107] *Id.* at 51.

[108] *See id.* at Chapter 2 (Struggling to Survive).

[109] *See id.* at 91–93.

[110] *See* Abbye Atkinson, *Rethinking Credit as Social Provision*, 71 STAN. L. REV. 1093, 1120–26 (2019) (tracing the rise of consumer credit as a privatized form of social provision).

[111] DEBT'S GRIP, *supra* note 4, at 39–43; Jean Braucher, *Consumer Bankruptcy as Part of the Social Safety Net Fresh Start or Treadmill?*, 44 SANTA CLARA L. REV. 1065, 1066 (2004).

[112] *See, e.g.*, Foohey et al., *Life in the Sweatbox*, *supra* note 104.

[113] DEBT'S GRIP, *supra* note 4, at 39–43, 91. CBP data indicate that unemployed households enter bankruptcy with more unsecured debt than employed households. *Id.* at 92.

[114] *Id.* at 93, 96.

[115] *Id.* at 91.

[116] *Id.* at 41 (reporting that 42% of filers turned to payday and car title lenders).

friends.[117]

The risks of borrowing as a coping strategy are high. Households mask the volatility of their financial position by borrowing to smooth consumption. In the short term, this creates the appearance of stability, but over time it deepens indebtedness and erodes resilience.

Rising credit card delinquency rates, which reflect missed payments, signal household financial precarity and support the findings in *Debt's Grip*. The Federal Reserve treats credit card defaults as an indicator of household financial distress, using them to forecast recessions and assess future economic conditions.[118] Recent reports show credit card delinquencies are rising,[119] with the share of people in delinquency surpassing levels last seen during the 2008 financial crisis.[120] This mounting unsecured debt burden not only signals financial fragility across households but also magnifies the systemic inequalities that *Debt's Grip* documents, leaving already vulnerable groups at higher risk of financial collapse.

Debt's Grip further indicates that people endure privations because they are determined to catch up on debts.[121] They work more hours or get another job, go without medical care[122] and food,[123] and discontinue contributions to retirement accounts.[124] They also deplete their assets during

[117] *Id.* at 42 (reporting that 66% of filers accepted or borrowed money from "family or friends").

[118] Juan M. Sánchez & Masataka Mori, *The Broad, Continuing Rise in Delinquent U.S. Credit Card Debt Revisited*, FED. RES. BANK OF ST. LOUIS (May 9, 2025), https://www.stlouisfed.org/on-the-economy/2025/may/broad-continuing-rise-delinquent-us-credit-card-debt-revisited.

[119] *Id.* (finding that rising credit card delinquency is "widespread and continuing," although the rate of growth has slowed since early 2024).

[120] *Id.* (finding that "the share of credit card debt in delinquency is reaching levels seen in the 2008 global financial crisis, and the share of people in delinquency has surpassed levels from that time.").

[121] *Id.* (meaning people go without basic necessities due to low or unstable income in an attempt to stay financially afloat).

[122] DEBT'S GRIP, *supra* note 4, at 45–46 (reporting that "73% of filers went without at least one of four types of healthcare: dental, doctor visits or surgery, medication or prescriptions, and mental healthcare."); *id.* at 84 (indicating that medical bankruptcy filers go without some form of health care, especially dental care, more than other filers).

[123] *Id.* at 47 (reporting that "28% of filers indicated that they or someone in their household took the desperate step of going without food in the two years prior to filing").

[124] *Id.* at 47 (reporting that "55% of filers indicated that they discontinued contributions to their retirement accounts" and some depleted their assets by withdrawing money from these accounts).

the prebankruptcy period. They might pawn assets[125] or liquidate retirement accounts,[126] which jeopardizes their postbankruptcy financial security.[127]

The authors demonstrate that debt collectors make this time inside the sweatbox worse.[128] Pressure from debt collectors amplifies the extent to which people endure privations and incur unsecured debt as they struggle during the prebankruptcy period.[129] For instance, debt collection activity and increased privations correlate. Filers who agreed that pressure from debt collectors contributed to their bankruptcy were more likely to report privations across all categories.[130] The data show a similar pattern for filers who cited formal debt collection, namely home foreclosure or car repossession, as contributing factors for their bankruptcy cases.[131] Moreover, prebankruptcy pressure from creditors leads to more borrowing to make ends meet.[132] Again, people turn to unsecured debt, including fringe lending products, which are costly with high interest rates.[133] What a brutal cycle. Debt begets more debt to stave off anxiety from external pressures tied to debt.

People wait a long time to file bankruptcy, deploying coping strategies and going without while enduring pressure from debt collectors. Inevitably, their time in the sweatbox further weakens their prebankruptcy financial position, with potential to diminish the benefits that accrue from bankruptcy's fresh start.

C. Financial Precarity Disproportionately Presents in Vulnerable Groups of Bankruptcy Filers

Consumer bankruptcy laws are facially neutral, but the experiences of certain groups in consumer bankruptcy cases are shaped by socioeconomic dynamics and public policy outside of bankruptcy. *Debt's Grip* uses data to illustrate how the inequities that appear in the consumer bankruptcy system

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[125] *Id.* at 41 (reporting that "[41%] of filers pawned personal property to make ends meet").

[126] *Id.* at 41–42.

[127] *Id.* at 43.

[128] *See id.* Chapter 9 (Lawsuits & Debt Collectors).

[129] *See id.*

[130] *Id.* at 195 (indicating they endured six privations as compared with four of all other filers).

[131] *Id.* 196–97.

[132] *Id.* at 197.

[133] *Id.*

start much earlier and links them to structural problems in the United States.

1. Black Households & Bankruptcy

Debt's Grip illustrates the bankruptcy experiences of black individuals and households in ways that mirror the racial disparities they face outside the bankruptcy system.[134] The data presented underscore how systemic discrimination, manifested in income inequality, limited access to generational wealth, discriminatory lending practices, and racially segregated housing markets, shape the path of black debtors into bankruptcy and continue to affect them there.[135] Legal scholars have emphasized that bankruptcy law, while facially neutral, operates within a broader ecosystem that harms black people across all aspects of American economic life.[136] *Debt's Grip* reinforces this view by showing how the burdens black debtors carry into bankruptcy reflect deeply rooted patterns of economic exclusion and by highlighting the limitations of bankruptcy law to address these harms.

The data presented in *Debt's Grip* show that black households are significantly overrepresented in the bankruptcy system compared to their share of the U.S. population. Although only 14% of the population identifies as black, black households make up 27% of those who file for bankruptcy.[137] This racial disparity is pronounced in chapter selection. While approximately two-thirds of all debtors filed under chapter 7 and one-third file under chapter 13, 50% of black filers enter chapter 13, which is a slower, more expensive process with a lower likelihood of discharge.[138]

The authors note that this overrepresentation has existed for decades.

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[134] *Id.* at 107; *see id.* Chapter 6 (Blackness of Bankruptcy).

[135] *See* DEBT'S GRIP, *supra* note 4, Chapter 6 (Blackness of Bankruptcy).

[136] *See, e.g.*, Matthew Bruckner, Raphaël Charron-Chénier & Jevay Grooms, *Bankruptcy in Black and White: The Effect of Race and Bankruptcy Code Exemptions on Wealth*, 28 MICH. J. RACE & L. 217 (2023) (examining facially neutral exemption laws in bankruptcy cases and finding that racial differences in asset retention in bankruptcy cases yield disparate outcomes for black and white debtors and contribute to wealth inequality); A. Mechele Dickerson, *Race Matters in Bankruptcy Reform*, 71 MO. L. REV. 919, 921 (2006) (observing that bankruptcy laws appear race-neutral, but in application, some provisions widen racial wealth disparities, such as those that make more student loan and family support debts nondischargeable); A. Mechele Dickerson, *Race Matters in Bankruptcy*, 61 WASH. & LEE. L. REV. 1725 (2004) (arguing that exemptions laws were likely to cause racially disparate outcomes).

[137] DEBT'S GRIP, *supra* note 4, at 109.

[138] *Id.* at 109–110, Figure 6.1 (Racial and ethnic demographics of bankruptcy filers, by chapter 7 or chapter 13).

Previous studies by different CBP researchers have documented these patterns and identified several plausible explanations for the disparity in chapter choice, including attorney steering, wage garnishment pressures, homeownership aspirations, and systemic racial biases within the legal and financial systems.[139] Choice of chapter has repercussions. Chapter 13 cases carry higher up-front costs, impose longer repayment obligations, and succeed in producing a discharge less frequently than chapter 7 cases.[140] As a result, black households pay more for bankruptcy, are less likely to complete the process successfully, and are more likely to file a subsequent bankruptcy case.[141]

The authors of *Debt's Grip* use detailed financial data from bankruptcy filings to demonstrate that the racial wealth gap observed outside the bankruptcy system is mirrored within it.[142] The disparities between black and white households, well-documented in other studies, are equally evident in the asset and debt profiles of bankruptcy filers. The data show that black filers have lower home values, less retirement savings, and higher student loan debt as compared with other filers.[143] In addition, Black filers have less accumulated wealth and fewer assets to repay their debts as compared with other filers.[144] The data indicate black filers have lower total personal property values and higher debt-to-asset ratios, which means they are leveraged more and have less ability to repay their debts.[145] These financial characteristics reflect the same structural inequalities that drive the racial wealth gap more generally.

Homeownership is widely regarded as a wealth-building tool in the United States. Yet for many black families, discriminatory housing and lending policies have undermined that promise. Over decades, federal, state,

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[139] *See id.* at 110–113 (discussing possible reasons for the disparity featuring Jean Braucher, Dov. J. Cohen, Robert M. Lawless, *Race, Attorney Influence, & Chapter Choice*, 9 J. EMP. L. STUD. 393 (2012); Dov. J. Cohen, Robert M. Lawless & Faith Shin, *Opposite of Correct: Inverted Insider Perceptions of Race & Bankruptcy*, 91 AM. BANKR. L.J. 623 (2017)).

[140] DEBT'S GRIP, *supra* note 4, at 114.

[141] *Id.* at 115 ("Bankruptcy consumes more of Black people's lives.").

[142] *Id.* at 116–129.

[143] *See id.* at 116–17 & Table 6.2 (Finances of Bankruptcy Filers by Race and Chapter) (Medians).

[144] *Id.* at 117 (observing that in bankruptcy, "[o]ther filers' total asset values exceeds Black filers' total asset values, which aligns with racial differences in accumulated wealth" outside the bankruptcy system).

[145] *Id.* at 117–18 & Table 6.2 Finances of Bankruptcy Filers, by Race and Chapter (Medians).

and private actors have permitted and, at times, promoted exclusionary practices in the mortgage market, ranging from redlining to discriminatory underwriting standards and predatory lending.[146] As a result, black households have faced greater barriers to accessing affordable home financing and, when able to purchase homes, have disproportionately been steered into high-cost, subprime mortgages.[147]

Discriminatory patterns, such as those described above, have long-term consequences for wealth accumulation and are apparent in the financial profiles of bankruptcy filers. *Debt's Grip* reveals that black homeowners in bankruptcy carry higher mortgage debt and have significantly less equity in their homes compared to other filers. Among chapter 7 debtors, black homeowners have a mean home equity of only 6%, while other homeowners average 16%.[148] This lack of equity contributes directly to higher debt-to-asset ratios, leaving black chapter 7 filers more leveraged and with less capacity to repay their debts. As the authors note, "part of [this disparity] is attributable to expensive mortgages,"[149] which reflect systemic inequalities in access to fair lending and housing opportunities.

Debt's Grip underscores how black consumers often face more expensive credit across lending products. Cars are an everyday tool of necessity. People rely on them to get to work and access education, healthcare, childcare, and more.[150] Here too, black borrowers face disproportionate burdens. Discrimination in the auto market means that black consumers are more likely to be charged higher prices for cars and steered into high-cost, subprime auto loans.[151] CBP data confirm this disparity. Black bankruptcy filers are more likely than other filers to owe more on their car loans than the vehicles are worth, increasing their financial vulnerability.[152]

These patterns extend beyond car loans. The authors cite studies showing that credit card companies charge black borrowers higher interest rates, making unsecured debt more expensive.[153] In addition, predatory lenders disproportionately target black communities for high-risk, high-cost

[146] *Id.* at 118–20 (discussing the history of housing policy and featuring Mechele Dickerson, *Homeownership and America's Financial Underclass* (New York: Cambridge Univ. Press, 2014)).
[147] *Id.* at 120.
[148] *Id.* at 121.
[149] *Id.*
[150] *See id.* at 122–25.
[151] *See id.* at 122–25.
[152] *Id.* at 123 (Table 6.3 Bankruptcy Filers with Cars, by Race and Chapter).
[153] *Id.* at 124.

products such as payday loans and car title loans, which carry higher default risks and punitive repayment terms.[154] These practices funnel black consumers into debt traps that are more difficult to escape, compounding the financial precarity that precedes bankruptcy.

2. Single Women with Children

Some bankruptcy scholars have examined how bankruptcy laws systematically disadvantage single women with children.[155] *Debt's Grip* builds on that literature by exploring the financial precarity of single women, single mothers in particular, using data drawn from their bankruptcy cases and survey responses.[156] The study reveals that single women's prebankruptcy struggles are marked by inadequate income, high costs of living, and unsustainable debt, as well as extensive coping mechanisms and privations.[157] Single women filers rely on a range of coping strategies to stay financially afloat. Their efforts to avoid bankruptcy before filing highlight the acute and chronic financial strain experienced by single women with children across the United States.[158]

Debt's Grip reports that women constitute the largest demographic group in the consumer bankruptcy system, accounting for 58% of all filers.[159] The authors explain that this gendered pattern reflects changes in the "economics of family life," including rising divorce rates, declining marriage rates, and increased participation of women in higher education and the paid workforce.[160] The data show that single women outnumber single men within the bankruptcy filing population.[161] In addition, single women are

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[154] *Id.*

[155] *See, e.g.*, Belisa Pang & Katherine Fang, *Parental Obligations in Bankruptcy*, 99 AM. BANKR. L.J. 187 (2025); Foohey et al., *Portraits*, *supra* note 9, at 573; Nathalie Martin, *Winners and Losers in Bankruptcy Reform: Do Women and Children Really Come Out on Top?*, 41 FAM. L.Q. 219 (2007); Peter C. Alexander, *"Herstory" Repeats: The Bankruptcy Code Harms Women and Children*, 13 AM. BANKR. INST. L. REV. 571 (2005); Rebecca M. Burns, *Killing Them with Kindness: How Congress Imperils Women and Children in Bankruptcy under the Facade of Protection*, 76 AM. BANKR. L.J. 203 (2002).

[156] *See* DEBT'S GRIP, *supra* note 4, Chapter 7 (Ladies (With Children) in Bankruptcy).

[157] *Id.*

[158] *Id.* at 135.

[159] *Id.* at 132; *see also* Elizabeth Warren, *Bankrupt Children*, 86 MINN. L. REV. 1003 (2002); Foohey et al., *Portraits*, *supra* note 9, at 573.

[160] DEBT'S GRIP, *supra* note 4, at 132–134.

[161] *Id.* at 132 (reporting findings that twice as many single women as single men file while three times more [s]ingle black women file than single black men).

disproportionately likely to have caregiving responsibilities. According to the book, single women filers are 50% more likely than single men to have dependents, underscoring the intersection of gender, caregiving, and financial precarity.[162]

Debt's Grip documents the pronounced financial effects of raising children as a single woman though its study of bankruptcy filings. Single women filers often have insufficient income to support themselves and their children, who have additional expenses.[163] According to the data, bankrupt single women earn less than bankrupt single men in the two calendar years leading up to their bankruptcies, and their expenses often include not just personal expenses but also those required to take care of their children.[164] Many single women in bankruptcy are sole providers and do not receive child support, which exacerbates the financial pressures of caring for children.[165]

Debt's Grip reports that single women also carry more debt, particularly student loans, home mortgage debt, and unsecured debt they have incurred to make up for the gap between their income and expenses. Single women filers responding to the survey "wrote about difficulties with student loans and mortgages and with stretching income to meet expenses, particularly when their income had to cover their needs" and their dependents' needs.[166]

The book indicates that single women filers also are more likely to have mortgage debt, which increases both the value of their assets and the total amount of their debt.[167] According to the authors, the experiences of single women filers in bankruptcy reflect national trends here, too, as more single women than single men purchase their own homes.[168] In 2021, single women accounted for 19 percent of home purchasers, as compared with 9 percent for single men.[169] But, as noted above, single women have lower incomes than single men, and as such, mortgage payments consume more of their income.[170]

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[162] *Id.* at 134, Figure 7.1 (showing that single black women who file bankruptcy are almost twice as likely to have dependents as single black men who file, and single women are 25% more likely to have dependents than single men).

[163] *See id.* at 146–153.

[164] *Id.* at 144.

[165] *Id.* at 144–45 (some single women survey indicated in their survey responses that they do not receive child support).

[166] *Id.* at 139.

[167] *Id.* at 138–39, 141 & Tables 7.2, 7.3. 7.4.

[168] *Id.* at 141.

[169] *Id.*

[170] *Id.* at 141–42.

Finally, *Debt's Grip* explains that many single women with children are "long strugglers" (69%), using more coping strategies to try to stay financially afloat, and enduring greater privations by cutting expenses from their budgets before filing for bankruptcy.[171] In particular, single women, with or without children, incur debt to pay for expenses by "putting expenses on credit cards, taking out payday loans, pawning property, and borrowing from family and friends."[172] Notably, according to the book and other studies, single women use payday loans at higher rates than single men.[173] The stories of single women filer respondents emphasized that high-cost payday loans only made things worse.[174]

The privations single women filers endure prebankruptcy reflect these households' extended expenses attendant to caring for children. These households report going without car repairs, dental care, medical care, and foregoing education and health insurance at significant rates.[175]

The financial realities of being a single woman with dependents impose tremendous stress on these households both before and after bankruptcy. The authors point out the limits of bankruptcy in providing more permanent financial stability without structural shifts to pay equity, access to affordable, quality childcare and health care, the absence of child support, or other solutions.[176]

3. Senior Citizens

The data in *Debt's Grip* show that more senior citizens are filing for bankruptcy than ever.[177] Gray bankruptcies, those that involve filers 65 or older, "increased more than threefold" from 2001 to 2021.[178] Many seniors

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[171] *Id.* at 147–151 & Figure 7.2 (Coping strategies of single women filers during the two years before bankruptcy, by presence of children) & Figure 7.3 (Privations reported by single women two years before bankruptcy, by presence of children).

[172] *Id.* at 149.

[173] *Id.* According to data in *Debt's Grip*, 45% of single women filers turned to payday lenders as compared with 39% of single men and 41% of couples. *Debt's Grip's* findings track another study which found that women constitute 60 percent of payday loan borrowers and that single mothers use payday loans at higher rates.

[174] *Id.* at 150.

[175] *Id.* at 151–54 & Figure 7.3 (Privations reported by single women two years before bankruptcy, by presence of children).

[176] *Id.* at 158.

[177] *Id.* at 161–63.

[178] *Id.* at 161 & 163 (Figure 8.1 (Age distribution of bankruptcy filers across five time

lack financial stability largely due to increased debt and insufficient retirement funds and other resources to cover everyday living expenses and pay the medical bills that accompany the costs of aging.[179] Simply stated, their debt is going up while their income is declining.[180] *Debt's Grip* explains why the roots of this problem are structural rather than individual.

Debt's Grip links the increase in gray bankruptcies to policy shifts over the past four decades that have led to the deterioration of the U.S. social safety net over time.[181] In the latter half of the twentieth century, government programs, such as Social Security, Medicare, and employer-sponsored, defined-benefit pensions allowed people to retire comfortably upon reaching age 65.[182]

Today, many seniors do not have enough income in their retirement years. Their income declines for a variety of reasons outside of simply leaving the workforce, such as illness, death of a spouse, or inability to find new employment following job loss.[183] In addition, pensions have become rare, replaced by 401(k) plans funded primarily by individuals rather than employers.[184] According to CBP data, seniors who file bankruptcy lack sufficient retirement savings to adequately supplement their Social Security income.[185] The mean amount in their retirement accounts is only $6,533, and 72% of senior filers reported that they had nothing at all set aside for retirement income.[186] Their retirement savings are insufficient often due to income inadequacies during their working years or withdrawals from retirement savings to weather previous financial hardships.[187]

In addition, Social Security income is insufficient. Policy changes that have decreased the value of Social Security benefits from 50 percent of preretirement income to 40 percent, while also increasing the eligibility age for benefits from 65 to 67, are part of the problem.[188] Reliance on Social Security as a primary rather than supplemental source of income, as pensions have disappeared, amplifies seniors' income challenges.[189]

periods of the CBP)).

[179] *Id.* at 160–61.

[180] *Id.* at 164–70.

[181] *See id.* at Chapter 8 (The Riskiest Years—Bankruptcy Seniors).

[182] *Id.* at 160, 173.

[183] *Id.* at 168–69.

[184] *Id.* at 160.

[185] *Id.* at 172.

[186] *Id.* at 172.

[187] *Id.* at 173–75.

[188] *Id.* at 170–71 (explaining policy changes that have affected Social Security).

[189] *Id.* at 171.

Finally, the costs of declining health and its accompanying medical debt magnifies seniors' financial problems.[190] The data show that among senior filers, more than four out of ten report that they filed bankruptcy because of either medical expenses or "the indirect costs" of income lost after missing work to care for themselves or others.[191] The stories of senior filers underscore the financial struggles that accompany declining health.[192] They cite large medical debts for surgeries and other care despite Medicare or even health insurance.[193] And they endure privations like lost income from missed work or missing car payments.[194] Furthermore, Medicare has gaps in coverage and care and can include monthly premiums and require deductibles and co-pays.[195]

The increase in gray bankruptcies and seniors' financial profiles and stories in bankruptcy signify more widespread financial precarity among older people in the United States.

D. The Drain of Student Loans

Student loan debt represents a significant financial burden for millions of Americans and has become a growing concern for individuals and the economy. As of August 2025, outstanding federal student loan debt reached nearly $1.7 trillion, with 42.7 million Americans holding federal loans.[196] Student loan defaults are again on the rise,[197] likely due to political decisions to halt some relief programs. Student loans can have a substantial impact on an individual's financial stability, harming their ability to achieve key life milestones and leading to long-term financial insecurity.[198]

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[190] *Id.* at 176–80.

[191] *Id.* at 176–77 (Table 8.4 (Medical Contributors to Bankruptcy and Prebankruptcy Privations, 65 Years or Older (%))).

[192] *Id.* at 176.

[193] *Id.* at 176–77.

[194] *Id.* at 177.

[195] *See id.* at 178–80 (explaining Original Medicare Parts A–D).

[196] Fed. Res. Bank of New York, Quarterly Report on Household Debt and Credit, 2 (Aug. 2025), https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/ HHDC_2025Q2.

[197] *Id.* (finding that the number of student loans in delinquency, defined as 90 days past due, rose "sharply" in the second quarter of 2025).

[198] *See* Brooke Gotberg & Evan Miller, *The Social Cost of Unpaid Student Loans*, 101 DENV. L. REV. 755, 756 (2024); FINAL REPORT OF THE ABI COMMISSION ON CONSUMER BANKRUPTCY 3 (2019), https://consumercommission.abi.org/commission-report

Americans typically consider higher education as a path to higher income and financial stability, making college a worthwhile investment of time and money. *Debt's Grip* suggests that the data cloud that presumption because the unsecured loans required to access higher education[199] "may not generate the income benefits" anticipated and only add to individual financial struggles, particularly for borrowers who do not complete their programs of education.[200] Borrowers then go without to try to stay financially afloat. Some filers wrote about how student loans combined with unemployment and underemployment harmed their ability to pay for essential living expenses.[201]

The drain of the student loans is particularly acute for black and women students. The data show racial disparities in student lending that contribute to the racial wealth gap.[202] *Debt's Grip* reports that black students are more likely to use loans to finance higher education as compared with white students (85% and 69%, respectively) and owe more on average than white students.[203] Nearly half of black students default on those loans as compared with 21% of white students.[204] Again, these racial disparities are evident in the bankruptcy system, as CBP data show black filers are more likely to enter bankruptcy with student loan debt and are more likely to owe more on those loans than other filers.[205] These findings make sense when viewed in light of other scholarship on this topic.[206] As Professor Abbye

("Academic studies have associated student debt with (1) lower earnings of college graduates, (2) lower levels of homeownership, (3) lower automobile purchases, (4) higher household financial distress, (5) lower probability of students choosing public-service careers, (6) poorer psychological functioning, (7) delayed marriage, and (8) lower probability of continuing education through graduate school. Student loan debt thus affects not only those who owe the loans but also has consequences that ripple through our communities and our nation.") (citations omitted).

[199] DEBT'S GRIP, *supra* note 4, at 104 (The data show that the "median student loan amount owing for those filers who completed some college is $24,539" and "the median student loan amount owing for filers with bachelor's degrees and with graduate or professional degrees is $66,844 and $115,949, respectively.").

[200] *Id.* at 101.

[201] *Id.* at 127.

[202] *See id.* at 127–28.

[203] *Id.* at 127. Black students owed, on average, $34,000, as compared to $30,100 owed by white students.

[204] *Id.*

[205] *Id.* at 128, 117 (Table 6.2. Finances of Bankruptcy Filers, by Race and Chapter (Medians)).

[206] Abbye Atkinson, *Race, Educational Loans, & Bankruptcy*, 16 MICH. J. RACE & L. 1, 26–33 (2007) (proposing reasons that may help to explain why college education alone may

Atkinson has explained:

> Disparities in income levels matter in terms of the repayment of educational loans for African American college graduates because African American college graduates make less money after graduation than White college graduates . . . Because college costs remain the same for all students, African Americans who borrow money for school, yet earn less than Whites, are at a disadvantage in terms of being able to repay burdensome educational loans while also devoting income to the daily cost of living. With less money to meet financial needs, the inescapable burden of repayment of educational loans may become greater for African Americans.[207]

In addition, the *Debt's Grip* data show single women filers are more likely to have student loans and owe more in student loans than single men (and married or partnered couples), with single black women owing the most.[208] According to the authors, this data follows patterns in how women and men finance education generally.[209] The authors report that outside of bankruptcy, women are more likely to take out student loans and borrow in larger amounts than men.[210] Because women earn less income, they struggle to repay their student loans.[211] Single women filers commented on the difficulties of repaying student loans with insufficient income and tight budgets.[212] Single women with dependents also endure more privations because their overall household expenses reflects the additional costs of caring for children.[213] The burden of student loan payments are part of these financial realities.

As the authors observe, many student loans are not dischargeable in bankruptcy.[214] Debtors must demonstrate "undue hardship," which most courts interpret as an extreme and permanent event preventing their ability to earn sufficient income, combined with a history of good-faith attempts to repay.[215] Over time, this standard has become so onerous in practice that

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not insulate African Americans from financial distress).

[207] *Id.* at 27.

[208] DEBT'S GRIP, *supra* note 4, at 6, 139–140.

[209] *Id.* at 139–40.

[210] *Id.*

[211] *Id.* at 142.

[212] *Id.* at 140–41.

[213] *See supra* Section IV.B.2.

[214] *See* 11 U.S.C. § 523(a)(8).

[215] *See, e.g.*, Brunner v. New York State Higher Educ. Svcs. Corp., 831 F.2d 395, 396

many students simply do not attempt to discharge student loans in bankruptcy.[216] As a result, enormous student loans are a decades-long debt obligation for many. Even if an individual obtains some debt relief via the bankruptcy discharge, they exit with the nondischargeable student loan debt.[217] The weight of that educational debt can then hamstring the debtor's fresh start, continuing the financial precarity that motivated the bankruptcy filing in the first place.

V. The Role of Bankruptcy Data in Law Reform

Empirical research shapes our understanding and development of consumer indebtedness and bankruptcy law. Legal scholars have used data to challenge prevailing narratives, document systemic disparities, and inform policy debates. These studies collectively emphasize that policy grounded in empirical evidence can better reflect the lived experience of financially distressed households.

Bankruptcy was among the earliest legal fields subject to empirical study,[218] since before the Bankruptcy Reform Act of 1978.[219] Since, some legal scholars have used the bankruptcy system as a kind of "pathology laboratory for data and insights about other social issues."[220] These bankruptcy empiricists grapple with questions that involve the bankruptcy system and the societal landscape in which that system operates.[221]

It makes sense to turn to bankruptcy filers to learn more about the

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(2d Cir. 1987) (*per curiam*) (articulating the undue hardship discharge).

[216] Jason Iuliano, *The Student Loan Bankruptcy Gap*, 70 DUKE L.J. 497, 501 (2020).

[217] *See* Nicole Langston, *Discharge Discrimination*, 111 CALIF. L. REV. 1131 (2023) (arguing that the nondischargeability provisions in the Bankruptcy Code lead to unintended costs in application for economically marginalized individuals); Kara Bruce, *Recent Developments in Educational-Benefit Discharge Litigation*, 38 BANKR. L. LETTER 1 (2018) (explaining that "a consumer bankruptcy filing can lift the weight of credit card and medical debt from a debtor's shoulders" but "a debtor's student loans generally survive the bankruptcy discharge.").

[218] Robert M. Lawless, *What Empirical Legal Scholars Do Best*, 87 TEMP. L. REV. 711, 712 (2015) (tracing the history of empirical research in consumer bankruptcy before the 1978 Bankruptcy Act); Katherine Porter, *The Potential and Peril of BAPCPA for Empirical Research*, 71 MO. L. REV. 963, 965–970 (describing the history of using empirical research to understand bankruptcy).

[219] Bankruptcy Reform Act of 1978, Pub. L. No. 95-598, 92 Stat. 2549.

[220] Jay Lawrence Westbrook, *Empirical Research in Consumer Bankruptcy*, 80 TEX. L. REV. 2123, 2125 (2002).

[221] Lawless, *supra* note 218, at 719 (stating that best empirical legal scholarship aims to understand the "social context" in which legal systems operate).

financial lives of Americans outside of bankruptcy. Bankruptcy has long been a rich source of data about what is happening before people turn to bankruptcy, functioning as an "early warning signal" for financial hardship within a larger population.[222] For instance, many of the mortgage lending and servicing abuses that contributed to the 2008 financial crisis were first detected in the consumer bankruptcy system.[223] By analyzing bankruptcy data, researchers can identify trends in household financial distress and evaluate the effectiveness of existing laws and policies.

The authors of *Debt's Grip* examine data from the bankruptcy system to understand and explain escalating household indebtedness more generally. Throughout, the authors use case-level data to identify and describe financial patterns inside the consumer bankruptcy system. They link these patterns to challenges stemming from "economic and social structural problems" outside the bankruptcy system. Bankruptcy law, however, is ill-equipped to address these structural challenges even though it functions as a source of detection.[224] Bankruptcy cannot overhaul the healthcare system even though it can discharge medical debt. Bankruptcy cannot alter the labor market. Bankruptcy cannot create a transportation infrastructure that mitigates reliance on cars. Bankruptcy cannot eliminate discrimination across all aspects of society.

Debt's Grip underscores the need for a multi-dimensional approach to domestic policy reform that accounts for the interplay among the different policy sectors.[225] Health care and employment, for instance, interact because medical issues lead to lost income and even unemployment, which exacerbate existing financial struggles arising out of medical debt.[226] The structure of the modern labor market often results in underemployment or periods of unemployment, challenges that are further compounded by the burden of student loan debt. Senior citizens face limited fixed incomes, rising costs of living, higher medical expenses linked with aging, credit card debt incurred to try to float through financial struggles, and financial scammers. Impactful

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[222] FRAGILE MIDDLE CLASS, *supra* note 11, at 6.

[223] *See* Katherine Porter, *Mistake and Misbehavior in Bankruptcy*, 87 TEX. L. REV. 121, 124 (2009) (reporting on mortgage servicer mistakes detected in bankruptcy case data and suggesting that mortgage servicing suffers from the same defects outside of bankruptcy and may have contributed to the mortgage crisis).

[224] DEBT'S GRIP, *supra* note 4, at 217.

[225] *Id.* at 218–19; *see also* Porter, *supra* note 218, at 1078 (recognizing whole host of policy areas intersecting with bankruptcy system and importance of empirical research on relationship between those areas and consumer bankruptcy).

[226] DEBT'S GRIP, *supra* note 4, at 217.

reform requires an integrated approach for these societal challenges.

Yet bankruptcy law reform has an important role to play. As part of the social safety net, bankruptcy offers debt relief and a financial reset for those facing unmanageable burdens. *Debt's Grip* acknowledges that targeted reforms to bankruptcy law could help mitigate some of the downstream effects of systemic inequities, such as income instability, inadequate health coverage, and racial wealth gaps, by easing access to relief and making the system more responsive to the realities of modern consumer debt.[227]

The reforms proposed in *Debt's Grip* are procedural and substantive.[228] The procedural reforms would streamline the system by simplifying the process and reducing barriers to access bankruptcy relief. The authors support provisions in the Consumer Bankruptcy Reform Act of 2024 ("CBRA") which would eliminate the complex and burdensome eligibility hurdles that currently sort debtors into chapter 7 and chapter 13 based on a means test.[229] Instead, the CBRA would funnel filers into a single mechanism that has flexibility to account for debtors with different incomes and assets.[230] The authors also support mitigating the inaccessibility that stems from attorney fees and costs by allowing debtors to pay their attorneys over time.[231]

The authors also propose substantive bankruptcy law changes which would permit debtors to modify loans on essential assets like homes and cars and exempt equity in their houses, making it possible for debtors to stay in their home and retain their cars, and revise the standards for disagreeability of student loans and penal debt.[232] They also embrace the CBRA's "minimum payment obligation" measured by assets and income and thus tailored to each debtor's individual circumstances.[233]

It is no coincidence that *Debt's Grip* endorses proposed reforms to consumer bankruptcy law that align with pending federal legislation. Many of these proposals have circulated for years in public policy conversations, thanks in large part to the sustained efforts of scholars affiliated with the CBP and other leading bankruptcy researchers.

Such is the way of advocating for policy change. The relationship between empirical research and policymaking is rarely linear. It is better

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[227] *See id.* at 222–28.

[228] *Id.*

[229] *Id.* at 227 (discussing eliminating chapter choice as proposed in the Consumer Bankruptcy Reform Act of 2024, S. 5577, 118th Cong. (2024)).

[230] Consumer Bankruptcy Reform Act of 2024, S. 5577, 118th Cong. (2024).

[231] DEBT'S GRIP, *supra* note 4, at 227.

[232] *Id.* at 223–26.

[233] *Id.* at 226.

understood as a labyrinth, where the research winds its way through political, institutional, and narrative channels before emerging as proposed legislation. Even then, there is no guarantee Congress will act. Nevertheless, empirical research plays a vital role in shaping the policy terrain.

The influence of medical bankruptcy research on the ACA exemplifies how empirical findings enter the legislative labyrinth, not as straight lines from data to statute, but as part of a winding process of public framing, expert discourse, and political momentum. Before the passage of the ACA, Congress considered legislation which would create a special kind of medical debt relief within chapter 7.[234] That legislation never came to fruition, but the research from the CBP co-investigators helped shape the policy narrative about medical debt and financial distress. These studies showed the prevalence of medical bankruptcies[235] and how health costs destabilized household finances, reinforcing the argument that health coverage is part of a broader financial safety net.[236] These studies did not yield changes to bankruptcy law and did not dictate the ACA's specific provisions, but they helped construct a persuasive narrative that linked health care costs to financial ruin, thereby strengthening the case for reform.

Empirical research on the relationship between medical debt and bankruptcy remains highly relevant today. Medical debt continues to drive consumers into the bankruptcy system each year, underscoring the persistent role of health-related financial strain in consumer insolvency. Thus, ongoing studies deepen our understanding of how medical costs function as both a cause and symptom of economic vulnerability.

Congress has demonstrated growing awareness of the issue. Recent legislative hearings have expressly focused on the medical debt crisis, signaling a heightened recognition of the financial harms associated with illness and healthcare costs.[237] These hearings reflect the same concerns

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[234] Medical Bankruptcy Fairness Act of 2009, S. 1624, 111th Cong. (2009) (proposing to amend the Bankruptcy Code for protection of those whose debt arose from medical expenses).

[235] *See* FRAGILE MIDDLE CLASS, *supra* note 11, at 141–71; AS WE FORGIVE, *supra* note 10, at 166–77.

[236] *See, e.g.*, Melissa B. Jacoby & Mirya R. Holman, *Managing Medical Bills on the Brink of Bankruptcy*, 10 YALE J. HEALTH POL., L. & ETHICS 239 (2010) (finding that financially distressed families significantly reduce their liability to medical providers before filing for bankruptcy using credit cards and home equity lines of credit).

[237] *See generally What Can Congress Do to End the Medical Debt Crisis in America?*, U.S. SENATE COMM. ON HEALTH, EDUC., LAB., & PENSIONS (July 11, 2024), https://www.help.senate.gov/hearings/what-can-congress-do-to-end-the-medical-debt-crisis-in-america.

highlighted in earlier empirical research, namely that medical debt is not just a personal misfortune but a structural threat to household stability and economic mobility.

At the same time, legal developments have complicated the policy landscape. A federal court recently invalidated a Consumer Financial Protection Bureau rule that would have limited the reporting of medical debt on consumer credit reports, holding that the agency rule exceeded its statutory authority.[238] This decision reopens the door for lenders, landlords, and employers to use unpaid medical bills in assessing creditworthiness, potentially exacerbating the economic marginalization of already vulnerable households. The ruling runs counter to legislative signals favoring stronger consumer protections and illustrates the ongoing tension between consumer-protection initiatives and creditor-oriented policy approaches.

Taken together, these developments underscore that while the empirical research linking medical debt, bankruptcy, and financial precarity, has influenced discourse and shaped legislative inquiry, its path to long lasting policy reform remains winding and contested. Continued research, particularly that tracks the long-term financial trajectories of consumers burdened by medical debt, remains essential to informing future policy-oriented interventions.

Bankruptcy scholars have debated the relative impact of empirical research on policymaking.[239] Our field welcomes expressions of friendly skepticism offered in good faith. Still, calls for data-driven policymaking are ubiquitous, suggesting there is a continuing role for data even if its influence is not immediately visible.

Empirical research takes time. Collecting and analyzing data is a lengthy process, and findings may lag real-time events. As a result, some early work CBP-affiliated researchers faced criticism for relying on datasets that were already several years old by the time of publication, [240] or for

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[238] Cornerstone Credit Union League v. Consumer Financial Protection Bureau, 791 F. Supp.3d 720 (E.D. Tex. 2025).

[239] *See* Stephen J. Lubben, *Do Empirical Bankruptcy Studies Matter?*, 20 AM. BANKR. INST. L. REV. 715 (2012) (contending that "[t]he actual effects [of empirical research] on bankruptcy as codified have been slight,"); Howard, *supra* note 12, at 459 (arguing that empirical research has little impact on policy debates because disagreements over policy "grow out of fundamentally different normative positions that cannot be reached by data."). *But see* TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, THE USE OF EMPIRICAL DATA IN FORMULATING BANKRUPTCY POLICY 50, 195, 196 (1987) (claiming that "[e]mpirical research is constantly used as the basis for the formation or amendment of statutes in a host of legislative areas.").

[240] *See* Robert A. Hillman, *Empiricism in Bankruptcy*, 75 CORNELL L. REV. 1095, 1103

selecting data points critics viewed as unrepresentative.[241] These critiques reflect a broader tension in policy-oriented empirical work: the demand for timely, actionable findings versus the slow, methodical pace required to gather and interpret robust data. *Debt's Grip* moves beyond those critiques, drawing on a much larger and longer-term dataset that offers a more comprehensive and contemporaneous view of consumer bankruptcy trends.

Legislating takes time, too. As noted, the influence of empirical research on law and policy is more labyrinth than straight line. Findings rarely produce immediate legislative change; instead, they wind through hearings, scholarly debates, advocacy campaigns, and court decisions before surfacing in statutory reform.[242] Congress debated bankruptcy reform for nearly a decade before enacting the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA").[243] Bankruptcy empirical research, particularly on the demographics of filers, the prevalence of repeat filings, and the role of medical and job-loss shocks, appeared repeatedly in congressional hearings and policy briefs during the legislative process that led to BAPCPA.[244] Legislators and advocates cited this research to challenge or defend competing narratives about the causes of bankruptcy.

It is not clear that these findings directly shaped BAPCPA's substantive provisions, which ultimately reflected a creditor-oriented reform agenda, but the empirical work nonetheless framed key points of contention. It provided a counterweight to claims of widespread abuse and highlighted the structural vulnerabilities that drove households into bankruptcy. In this way, the CBP's role in the BAPCPA debates illustrates that empirical research can influence the terms of legislative discussion even if it does not

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(1990) (criticizing AS WE FORGIVE on grounds that the data was dated by time of publication), Karen Gross, *Re-vision of the Bankruptcy System: New Images of Individual Debtors*, 88 MICH. L. REV. 1506, 1529–30 (1990) (same); Marjorie L. Girth, *The Role of Empirical Date in Developing Bankruptcy Legislation for Individuals*, 65 IND. L. REV. 17, 59 (1989) (same).

[241] Hillman, *supra* note 240, at 1103.

[242] Westbrook, *supra* note 220, at 2132 (stating that "[e]ven if empirical research did not have an immediate policy impact, the final value of all academic work must be measured over a longer time.").

[243] Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109–8, 119 Stat. 23 (2005). *See* Susan Jensen, *A Legislative History of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*, 79 AM. BANKR. L.J. 485, 512–15 (2005).

[244] *See, e.g.*, A. Mechele Dickerson, *Regulating Bankruptcy: Public Choice, Ideology, & Beyond*, 84 WASH. U. L. REV. 1861, 1872 (2006) (noting that opponents of BAPCPA relied on data that proved that the bankruptcy filing rate increased because of increased financial distress).

dictate the outcome.

Researchers thus play a vital role in the background, shaping how issues are communicated, supplying the evidentiary foundation for future action, and reframing policy questions in ways that make reform more likely down the road. Their work may not yield instant results, but it alters the map policymakers use to navigate the labyrinth.

Conclusion

Debt's Grip's is an important and timely contribution to a body of interdisciplinary empirical research that uses the bankrupt population to study household financial distress. The book depicts the reality of living on the financial edge in America. Its stories and data underscore that bankruptcy frames a much larger story—the consequences of shifting economic risk onto individuals and the limits of bankruptcy law to address the modern realities that shape their lives.

The authors reframe the public discourse on financial precarity as a multi-dimensional, interconnected set of structural problems to advocate for policies that restore the social safety net. They engage with those policy connections in their research but acknowledge the limits of bankruptcy law to address them. Changes to bankruptcy laws can help, but policymakers need to confront, more meaningfully, the other policy areas that interact with consumer bankruptcy. Although broader policy reform lies outside the bankruptcy system, bankruptcy professionals can work to improve bankruptcy as a tool for debt relief by being attentive to the pre-bankruptcy struggles depicted in *Debt's Grip.*

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