# Death Grip: Scapegoating the Subprime Loser by D.T. Cochrane

*President and new administration – why don't you put up a website to have people vote on the internet, as a referendum to see if we really want to subsidize the losers' mortgages? This is America!*

—Rick Santelli, CNBC analyst, live from the Chicago Mercantile Exchange

## Introduction

The word subprime seemingly came from nowhere. After eleven years of circulating almost exclusively in the business pages, 'subprime' showed up in a front-page headline of a major American daily for the first time on February 20, 2007 in the *Denver Post*. Current use of subprime typically describes a type of loan or a type of lender, but the word actually designates the borrower. Prime refers to the qualities of a borrower who has met the standards of credit lenders, while subprime borrowers fall short of those criteria. These standards divide borrowers into winners and losers and must be understood as part of American moral codes of obligation and personal responsibility, which play an important role in capital accumulation. Examination of the word subprime and its relation to other financial operations allows us to see how morality functions as part of the capitalist financial architecture. Subprime is first deployed in the extension of credit to designate a sub-class of borrowers who are vulnerable and therefore risky. The recent financial crisis, better understood as a crisis-for-some, was precipitated by the pursuit and capture of ever more of these borrowers. This endeavour was motivated by the higher returns associated with risky borrowers and justified by the belief that new financial instruments had made the high risk more manageable. Once the term had been invented, it then operated within the interactions among borrowers, lenders and other relevant institutions to protect the value the new debts that constituted assets for the lender. A propensity to moralize can be found in the language of both debt-collectors, who harangue defaulters to honour their debts, and the pundits, who decry efforts to assist the losers. In both instances, it functions to protect the asset-values of the lenders.

This description of how moralization functions as a feature of capitalism is based on an entirely different understanding: it considers capitalism as a mode of power rather than a mode of production.

Notes

1. 'Marginal' is used here in its technical, with no normative connotation. According to neoclassical economic theory, workers will continue to be added to a system of production until the wage paid to the worker equals the value-added by that worker. This means the wages of all workers are set by the worker at margin. A symmetrical argument is made about interest as the returns to capital and the value-added by machinery.

2. Jonathan Nitzan and Shimshon Bichler, *Capital as Power: A Study of Order and Creorder* (London: Routledge, 2009).

3. Nitzan and Bichler, *Capital as Power*, 228.

4. Nitzan and Bichler, *Capital as Power*, 280.

## 1 Ownership, value and the crisis

The basic facts of the so-called financial crisis are well known: the demise of Bear Stearns, Merrill Lynch and Lehman Brothers; the government protection of AIG, Freddie Mac and Fannie Mae, as well as GM; billions on bailouts for the banks. However, what has been little considered is the role the financial tumult has played in altering the makeup of ownership within capitalism. Although many commentators have criticized the government bailout as a form of nationalization, the actual structure of ownership and its relationship to the valuation of a corporation has gone largely undiscussed. Much has been made of the collapse of share prices of the big banks. Between August, 2007 and February, 2009 both Citigroup's (C) and Bank of America's (BAC) share prices dropped more than 90 percent. The other two members of the Big 4 – JPMorgan Chase (JPM) and Wells Fargo (WF) – fared better, but both still lost more than 55 percent. In addition to the drama of the stock market's treatment of the Big 4's, the media focussed on the US government's intervention with what would prove to be the misnamed Troubled Asset Relief Program (TARP). Although the plan was originally intended to arrange for the government to purchase the toxic assets no one else would buy, the money was used to buy preferred shares of the financial intermediaries. However, what was not explored was the relationship between the two moves, which relates to ownership and valuation.

The value assigned to a corporation, its market capitalization, is the present value of expected future earnings discounted for the risk that expected earnings will not be realized. The value will increase either as the expected earnings increase or as the assessed risks to those earnings decrease. For the financial intermediaries, this value is mostly comprised of the loans extended to borrowers and the capacity to facilitate financial operations. The expectations of earnings and risk associated with these assets were reassessed as US housing prices levelled off and borrower delinquencies began to rise. A slow decline accelerated as worst-case scenarios were realized. The markets for securities backed by mortgages seized up and left banks holding what had become worthless assets. Despite the fact that the overwhelming majority of borrowers continued to make their payments, market participants fled from mortgage-backed securities. With reduced expected earnings and increased risk assessment, the capitalization of the banks fell.

Total capitalization is captured in the values assigned to all claims on future earnings, which can generally be classified as either debt or equity. Equity is further divided in preferred and common shares. The price of common shares has garnered the public's attention, but the government purchased preferred shares through TARP. As the government purchased preferred shares, putting forth another claim on future earnings, the remaining portion of future earnings available to holders of common shares decreased and the price fell further. Did the fall in common equity value completely offset the increase in the preferred share value? If it did, then the change in the structure of ownership had no effect on either expected earnings or the assessed risk of the financial intermediaries, which is the outcome that mainstream economic theory would predict. That was not the case. As the government bought into the corporations the value of common equity fell less than the increased value of preferred shares. From the first quarter of 2008 to the first quarter of 2009, the value of preferred shares for the Big 4 increased $174.3 billion. The value of common shares fell by $123 billion, for an overall increase in capitalization of $51.3 billion: 2.1 percent growth. However, in order to grasp the meaning of these quantitative changes we need to consider the theory of capital as power.

## 2 Power, accumulation and redistribution

The architecture of capitalism is designed for accumulation. The actual meaning of accumulation is both murky and problematic. Advocates and critics of capitalism can be distinguished on the basis of what they mean when they talk about it. Neoclassical defenders view accumulation as the outcome of profit-seeking for hedonic maximization of utility. Competition is meant to ensure that all factors of production earn returns in proportion to their marginal contributions:[1] wages for labour, interest for capital. Profits are defined as earnings greater than marginal contributions and, by definition, will always be temporary and dissipated by consumption. Marxist critics view accumulation as a goal for its own sake, and they see it as the exploitative appropriation of a surplus-value generated by labour. Pecuniary profits are rolled over into productive capacity, so that monetary and 'machine' accumulation act as two sides of the same process. For the neoclassicists, utility is the fundamental building block of the capitalist architecture. For the Marxists, it is labour-value. Like Marx, this essay emphasizes accumulation as the defining goal of capitalism. However, it follows the theory of Jonathan Nitzan and Shimshon Bichler, who return to the importance of ownership and private property in the process of accumulation.

According to Nitzan and Bichler the most important feature of private ownership that it excludes people other than owners from making use of property.[2] Accumulation derives from an owner's right to exclude others and from his or her "ability to exact terms for not exercising that right."[3] One of the features to distinguish capitalism from other social orders that included private ownership is the mechanism of assessing accumulatory success in quantitative terms: capitalization. Capitalization allows a price to be attached to an asset based on the earnings it is expected to generate. Capital enters when value is assigned to ownership itself rather than simply the asset controlled via that ownership. This renders ownership divisible and vendible. The owner of an orchard need not rely upon each year's harvest to reap the rewards of ownership. Instead, she could sell a portion of the ownership of the orchard to someone else who will then share in future profit, while the orchard itself remains undivided and in the same hands. However, what determines the assessed value of the orchard? The standard perspectives claim that the value is ultimately dependent on the orchard's productivity. Nitzan and Bichler remind us that the valuation is grounded in the fact of ownership and the right of exclusion. If the owner of the orchard were unable to prevent anyone who wanted an apple from gaining access to the orchard, its effective price would be zero. However, once ownership is established, valuation depends on the entire social milieu within which the orchard functions. How popular are apples? Is there a stigma attached to eating them? How extensive is the transportation system? None of this can be reduced to either labour or productive capacity. **Figure 1** compares the employees, productive capacity and valuation of Apple Inc. and Kraft Foods Inc. The numbers above each set of bars is the ratio of Apple to Kraft for that factor. Kraft has almost three times as many employees and four times as much property, plants and equipment. Yet, Apple's capitalization is more than 2.5 times greater. If value and capitalization are determined by the complex social environment of the corporation, then accumulation depends on altering the social environment, which can include the components of the corporation itself. For Apple, this means not just improving the productivity of its work force but targeting particular high-spending market segments, creating a personality cult around CEO Steve Jobs, focusing on design aesthetic and much more.

Of course, no corporation is engaged in the struggle to change the societies in which it operates without a challenge from both other corporations and other members of those societies. Achieving that change to one's own benefit is power. Capitalism is not unique in being comprised of a hierarchy of combatants seeking to impose their design upon the social order. Hence, Nitzan and Bichler argue that every hierarchical social order is not a mode of production, but a mode of power.[4] What sets capitalism apart is its use of capitalization as a universal determinant of success. However, as a power process, capitalization does not have meaning on its own. There is no absolute register against which accumulation may be judged as successful or unsuccessful. Rather, the ongoing change in capitalized value can only be assessed as a matter of differential comparison. This means periods of success can be realized even in times of crisis, when absolute values are falling. If a corporation's capitalization decreases by 10 percent when the market as a whole falls by 15 percent, that is accumulatory success. At the same time, simply growing does not mean a corporation is successful if that growth is less than the rest of the market. The business press assumes this 'beating the average' yardstick as the measure of success.

With this in mind, we will return to the accumulatory trajectory of the Big 4 during the financial crisis. The banks grew in absolute terms, but that growth becomes even more stunning when considered in differential comparison. While the Big 4 grew by 2.1 percent from the first quarter of 2008 to the first quarter of 2009, over the same period the total value of all publicly traded corporations fell by 24.4 percent. The financial intermediaries (FIRE) as a whole fell by 13.6 percent. Note that because the market as a whole fell by more than FIRE, the financial intermediaries still enjoyed differential success over that period.

A picture of differential success for the Big 4 emerges in **Figure 2**. Between the first quarter of 1999 and the third quarter of 2007, the cumulative annual growth rate of FIRE's share of total market capitalization was 4.9 percent. The rate for the Big 4 was 6.7 percent. Between the third quarter of 2007 and the end of 2009, while FIRE had lost some ground, the Big 4 continued to grow at the slightly reduced rate of 5.3 percent. Within FIRE, the Big 4's differential growth increased from 1.7 percent to 5.4 percent. From the perspective of Nitzan and Bichler's theory of capital as power, the Big 4 have jointly grown more powerful over the period of supposed financial crisis. How have they achieved this? Unfortunately, the answers to that question escape us at the moment. The only thing we can say for certain is that the answer will not be found solely in either the realm of labour and production or some unknowable realm of universal and homogeneous human desire. Instead, it will require the far-reaching consideration of a myriad of social institutions, including the regimen of moral codes. Setting the stage for such an analysis means considering how moral codes have factored into the establishment of value and the role they play in accumulation.

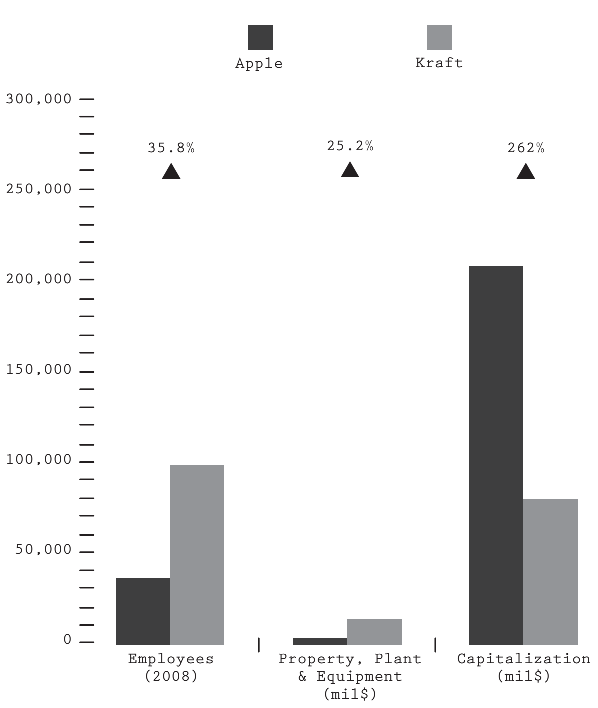
Nitzan and Bichler have argued that the distinction between politics and economics is meaningless from the perspective of accumulation, as the institutions and social practices typically assigned to the realm of politics become a part of capital when they contribute to processes of accumulation.[5] Similarly, systems of morality are indistinguishable from the economy. Moralizing discourses can be seen through the entirety of American political and economic history, and debt acts as *the* focal point of that discourse. The word subprime reveals how the moral discourse of debt disciplines debtors and keeps them within the sphere of assets that make accumulation possible.

5. Jonathan Nitzan and Shimshon Bichler, "Capital Accumulation: Breaking the Dualism of 'Economics' and 'Politics,'" in *Global Political Economy: Contemporary Theories*, ed. Ronen Palen (London: Routledge, 2000).

## 3 'Purifying the mercantile air.'

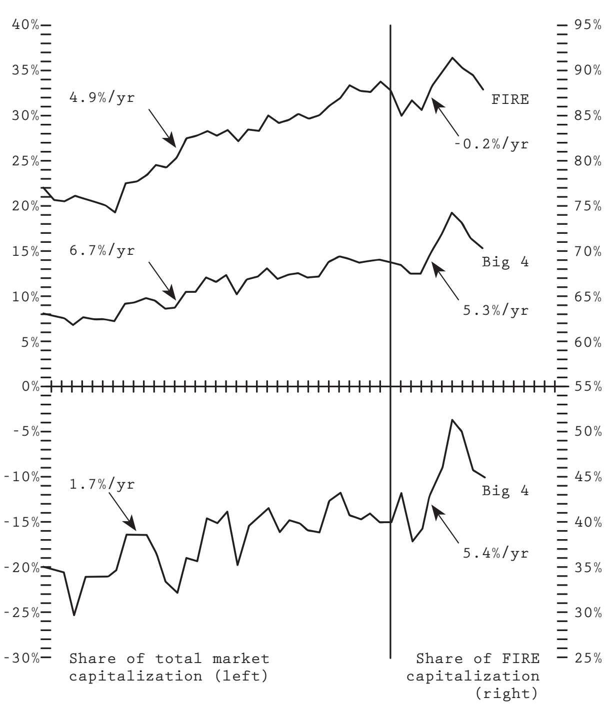
Among the American founding fathers, lending at interest was largely uncontroversial as long as the rates were reasonable and the borrowed funds were for productive purposes.

**Figure 1**: Capitalizing what? Comparison of Apple and Kraft




DATA: Property, plant and equipment and capitalization: 10-Qs for first quarter of 2010; Employees: 10-Ks for 2008. All are available through EDGAR.
NOTE: Figures for employees are the number. Figures of property, plant and equipment and capitalization are in millions of dollars. The ratios are the figures for Apple divided by the figures for Kraft.

**Figure 2**: Setting the market on FIRE: Differential accumulation of FIRE and the Big 4, 1999–2009




DATA: Datastream.
NOTE: Figures represent the cumulative annual growth rate for periods demarcated by the vertical line at the third quarter of 2007.

The Puritans effected an important moral shift by levying condemnation for non-productive borrowing squarely upon the borrower. For example, the preacher Cotton Mather ridiculed those who "bring Debts upon themselves, in such a manner, and in such a measure, that Folly nothing short of Criminal, is to charged upon them."[6] (Similar objections were expressed by secular intellectuals such as Thomas Paine. Their view was that "credit made freely available... encouraged people to spend beyond their means, to consume rather than invest."[7]) Despite Mather's objections to certain purposes of indebtedness, the communal aspects of his Calvinist theology came through with an invocation of the debtor's plea from Matthew 18:26: "Have patience with me, and I will pay thee all I owe." Where Mather urged the creditor to show some compassion and be willing, for the sake of the country, to forgive some debts, fellow preacher Samuel Moody, argued that "failure to pay one's earthly creditors created... a spiritual debt."[8] Moody expressed the dual nature of the debt relationship—financial and moral—that would form the pivot in arguments for and against bankruptcy laws.

Efforts to establish a federal bankruptcy law began with the US Bankruptcy Act, passed in 1800 and repealed in 1803. A second act passed in 1841 was repealed two years later. The issue exposed a deep divide within public and among politicians. On one side were those who felt it morally wrong to absolve debtors; on the other were those who felt it economically wrong to force men to endure an irredeemable debt, stymieing their productive potential. An attempted compromise position was advanced by those in the second camp. The sponsor of the 1841 bill asserted, "Let the *moral* obligation remain... It is the legal liability only which is touched."[9] This contributed to the decidedly American myth of the discharged debtor who makes good and goes back to honour his moral debt.

Not every thinker of the era retained moral sentimentality toward the debt relation. Jeremy Bentham justified the complete removal of interest ceilings and accused those making moral arguments against usury[10] of relying on "blind custom" which lacks "anything of steadiness or uniformity."[11] Bentham's individualism led to the stance that no lender or borrower ought to be restricted from entering on any terms into what he considered a strictly economic relationship. He was theoretically astute and cognizant of actual debt relations in his observation that a borrower who is unable to find a lender at the rates prescribed by the law may end up borrowing on even more disadvantageous terms in the black market.[12] Bentham's ideas had influence among sections of the American business class. One writer observed that the "mere moral obligations to pay money" were contrary to the utilitarian maxim that "the good of the few must yield to the good of the many."[13] However, such opinions were hardly the in the majority at the time, given the short lives of the first two federal bankruptcy acts.

Regardless of how the debt-relationship was being constructed in terms both moral and economic, the debates demonstrate the creation and reordering of the institutions of debt and morality. Despite attempts by some businessmen to distinguish an economic realm dictated by rationality and efficiency, morality remained a vital feature of the debt-relationship in both discourse and practice.

One of the most important innovations of the 19th century moral economy of debt was the credit bureau. Founded in 1841, the Mercantile Agency was the first business whose explicit mission was to sell "information with regard to the credit and affairs of every man of business." According to Scott Sandage, the agency "established itself as a national bureau of standards for judging winners and losers."[14] The agency's founder, abolitionist Lewis Tappan, explicitly sought to bring morality back into the marketplace. He believed that business surveillance "checks knavery, & purifies the mercantile air."[15] Although the bureau was established during the 'avalanche of printed numbers,' when individuals were being categorized and enumerated in social statistics,[16] it relied on qualitative reports as "Americans had not learned to think of one another as mere numbers."[17] Tappan initially relied on his network of fellow anti-slavery activists, who also subscribed to strong moral codes but were well-placed in the world of business. Reporters for the agency would send detailed reports on the 'three 'C's' of an individual—capital, character and capacity. Through such assessment, Tappan believed future creditors could judge someone's potential and therefore determine what level of risk could be taken in the extension of credit. The system institutionalized the moral judgments that were vital components of business transactions.

In his decision to focus on more than an individual's money holdings, Tappan was instrumentalizing the popular adage that "character is the poor man's capital."[18] Character was of great concern for American public intellectuals. The word brought together republican and individualist strands in American values. Character was the key to individual success, although it obviously depended upon the assessment of the community. A man of character earned the goodwill of others. This attitude was displayed by J. P. Morgan during his testimony before the 1912 Pujo Committee investigating the 'money trust' on Wall Street, when he told committee members that more than "money or property" a borrower gets credit "on his character."[19]

Debt was a fully entrenched feature of the American social landscape. However, it was frowned upon in all instances except for expansion and productivity. In the century of debates about bankruptcy laws, the distinction between loans for productive purposes and other uses was rendered into a moral-economic distinction. The distinction identified debt discharge as a "boon reserved for capitalist entrepreneurs, while simpler debtors should... remember the sanctity of their obligations."[20] This distinction finally allowed bankruptcy relief to become a permanent feature in American law in 1898, right before consumer debt was about to take off.

## 4 Inventing the productive consumer

The debates over bankruptcy laws had been a duel between those who wished to preserve the moral relations of debt and those who wished to regard the relationship solely for its economic functions. The solution focused on the economic virtues of the entrepreneur, retaining the debt stigma for all others. However, even as the debates on the moral economy of debt were shifting to relieve the entrepreneur from moral opprobrium, the entrepreneur was disappearing from the American business landscape. John D. Rockefeller announced the arrival of Big Business, declaring, "Individualism has gone, never to return."[21] The meaning of success would have to change. Big Business needed a class of trained clerks to run the large operations under the control of monopoly capitalists.[22] This class could not consider their technocratic lives to be inferior, falling short of the realization of the American Dream. The dream had to be reinvented. "The new dream acquiesced to wage labor. It was financed by debt. It hoped for liberation and fulfillment through a culture of abundance."[23]

6. quoted in Bruce H. Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Cambridge, MA: Harvard University Press, 2002), 39.

7. Mann, *Republic of Debtors*, 44.

8. quoted in Mann, *Republic of Debtors*, 38.

9. quoted in Scott Sandage, *Born Losers: A History of Failure in America* (Cambridge, MA: Harvard University Press, 2005), 36.

Consumer debt (renamed consumer credit to remove its social stigma) was not new. However, with the reconfiguration of the American dream, it reached unprecedented levels. The growing scale and technological capability of American industry were turning out larger and larger quantities of more and more household conveniences. American business used consumer credit to create markets for these goods. General Motors overtook Ford in the early part of the 20th century partly because of Ford's refusal to offer consumer credit. This refusal stemmed directly from Henry Ford's moral objection to debt. GM, unconstrained by moral considerations, formed the General Motors Acceptance Corporation (GMAC), which provided lending to both dealers and consumers. Ford implemented a lay-away plan that "promoted the most conservative conceptions of thrift, savings, and delay of gratification."[24] Automobiles were only the largest of debt financed purchases. By 1930, well over half of all furniture, washing machines, vacuum cleaners, radios and phonographs were purchased on instalment plans.[25] Instalment plan spending grew at a terrific pace, outstripping the booming gross national product by 8.7 percentage points annually.[26] All of this spending required a further moral shift in attitudes towards debt and consumer spending.

At the turn of the century, loans were primarily reserved for those who already had money. The middle and lower classes had little access to credit. When they did need credit, they were forced, as Bentham predicted, into the usurious arms of the loan shark. Progressives, arguing from a moral stance of equality, worked to change usury laws as part of an effort to broaden access to credit. The changes paved the way for former loan sharking operations to become legitimate businesses. Although illegal lenders continued to operate, the newly legitimate side of small loan provision—renamed industrial lenders—worked to justify its business, even policing their former black market colleagues.[27] They invoked the productive individual entrepreneur but combined him with republican ideals. The small loan financiers put their emphasis on industrial harmony and the common good. They portrayed themselves as benevolent providers of a community resource in short supply. Their borrowers were idealized as modest people with great ideas, in need of a small financial boost. This discourse was clearly at odds with the realities and requirements of rapidly spreading business at ever larger scales. In 1929, the American Industrial Lenders Association restored balance to the discourse by changing its name to the American Association of Personal Finance Companies.

The move by small loan finance companies away from the productivity claims within the moralizing discourse of debt was not universally shared. Big bankers voiced objections to small loans and instalment finance. Such objections were indicative of the inherent conservativism of bankers. The credit that became consumer debt did not originate with the banks, and they were materially powerless to prevent or restrict it. However, they were respected community figures who frequently spoke out against consumer credit. Their primary concern was the effect that consumer debt would have on savings, the source of their capital. A vice-president of the Bank of Pittsburgh invoked republican ideals and declared that the small loan provider "perverts" the common desire for a "safe tomorrow" by fanning the individual's "desire for possessions" and therefore "is an economic traitor to his country."[28] The bankers helped produce a backlash against consumer credit in the 1920s, with one businessman lamenting that easy credit was "breaking down the whole morale of the nation." Even marriage was debased as wedding rings could be had for "$2 down, $1 a week!"[29] The discourse shaped the practices of lending and borrowing. For example, many avoided borrowing because of the continued existence of stigma. The terms of lending would have been influenced by bank recrimination. An investigation of where instalment spending was most popular could offer insight into who was persuaded by the various moralizing debates.

The defence of small loans and instalment credit came in the form of a study by economist E.R.A. Seligman. Funded by GMAC, the study marked an early instance of the developing relationship between American Big Business and the academy. The study had been suggested by a GM board member who recognized that its results would be a win-win for GM. Should Seligman determine that instalment selling was contributing to economic growth, then the company could tout its contributions to the practice. If he instead criticized consumer credit, then GMAC could profit by restricting lending and implementing terms favourable to its bottom line.[30] In the end, Seligman exonerated instalment selling. Although he structured his defence in economic terms, he necessarily considered elements of the moral attacks on debt. The most interesting part of Seligman's defense is his attack on the moral critique that distinguished productive debt from its prodigal counterpart, consumptive debt. Seligman argued that all credit is necessarily productive: the money spent by consumers serves to fund the productive efforts of industry just as much as credit extended directly to producers.[31] Because of the difficulties of distinguishing between end, he suggested making distinctions based on the recipient: credit should be categorized as producers' credit and consumers' credit. Seligman was challenging that the distinction between production and consumption, which is fundamental to both mainstream and Marxist economics. He effectively erased the line that had exempted some debt from moral censure.

These debates were quickly followed by the Great Depression. The dramatic event provoked a wave of criticisms against instalment credit that produced "mischievous moral, social and economic effects."[32] The claim was that debt produced levels of consumption beyond what the populace could sustain. However, the drastic and unprecedented decline in output did not cause defenders of instalment finance to back down. Instead, they asserted that instalment credit actually kept the decline from being worse.[33] Of course, criticisms of consumer over-consumption continued. In fact, together with Republican concern over rising levels of debt, this criticism has marked the 20th century of American moralization of debt. Although the 1970s brought the innovation of the credit card, it did not generate a new ethic of debt, as many claim.[34] Rather, as Louis Hyman argues, "Credit card companies appropriated and extended a debt infrastructure already in place."[35] This infrastructure included the moral attitudes toward debt.

10. The evolution of the concept of 'usury' took it from meaning any interest at all to a restricted definition of excessive interest rates, with 'excessive' having no agreed upon value among observers.

## 5 Contemporary crises and the subprime loser.

Until the late 1980s and early 1990s, mortgage lenders tried to reduce risk by rationing credit and extending loans only to borrowers with perfect or near-perfect credit assessments – the so-called prime borrower. This was meant to reduce default rates and protect the value of the debt-asset. Patricia McCoy and Elizabeth Renuart identify four innovations within the lending market that changed this practice:

**1**
Regulatory changes allowed lenders to charge a risk premium to less creditworthy borrowers and to market more complex debt instruments. This increased the pool of eligible borrowers who could be transformed into debt-assets. These high-risk borrowers would also come with higher rates of return, something market participants seek constantly.

**2**
New technologies made statistical credit scoring models and automated underwriting possible. These models led analysts to conclude that the standard requirements for mortgage credit—20 percent down payment, two to three months savings, one or more years continuous employment, excellent credit ratings, low debt ratios and full documentation – could be relaxed without a drastic increase in default rates. They suggested that previous risk assessments had been overly harsh. Now, the large numbers of people who failed to meet elevated standards could be offered attractive loans.

**3**
Securitization provided new sources of credit and new means of risk sharing. Securitization practices were made possible by the previous two innovations. Legislatively, they required the passage of the Secondary Mortgage Market Enhancement Act. Technological changes "gave mortgage professionals the confidence to price subprime loans" funded with the expanded pools of credit.

**4**
Government incentives encouraged lending to low- and moderate-income borrowers. This legislation included the American Dream Downpayment Act of 2003 (42 U.S.C. § 12821), part of George W. Bush's Ownership Society Initiative. The act authorized subsidies to 40,000 low-income households per year to cover down payments and closing costs.[36]

11. Jeremy Bentham, *Defence of Usury* (NY: Theodore Foster, 1837), 7.

12. Bentham, Defence of Usury, 12.

13. J. Van Cott, "A General Bankrupt Law" in *Hunt's Merchants' Magazine and Commercial Review* 4 (1841): 22-35, 31-32.

14. Sandage, *Born Losers*, 100.

15. quoted in Sandage, *Born Losers*, 148.

16. Ian Hacking, "Biopower and the avalanche of printed numbers," Humanities in Society 5 (1982): 279-295.

17. Sandage, *Born Losers*, 130.

18. see Judy Arlene Hilkey, *Character is Capital: Success Manuals and Manhood in the Gilded Age* (Chapel Hill, NC: University of North Carolina Press, 1997).

19. GPO (Government Printing Office). *Money Trust Investigation: Part 15* (1913). http://fraser.stlouisfed.org/publications/montru/.

20. Mann, *Republic of Debtors*, 256.

21. quoted in Sandage, *Born Losers*, 251.

22. Government statistics on self-employed vs. waged workers do not extend back to this era. The best we can do is consider the share of workers employed as 'managers and officials,' 'clerical workers' and 'sales workers.' In 1860, 4.3 percent of workers were within these three categories. By 1920, it was 15.9 percent. This understates the increase in waged employees as other categories of workers would have seen shifts from self-employed to waged. For example, Big Business would have employed increasing numbers of 'professionals,' such as lawyers. If we include 'labourers,' who were less likely to be employed in Big Business than the clerical class, the change is from 14.4 percent in 1860 to 27.4 percent in 1920. Another way to investigate the change is to consider the decline in the number of 'farmers' among all workers. From 33.2 percent in 1860, farmers constituted only 16.4 percent of the workforce in 1920. It is of some significance that the share of farmers was still larger than the share of clerical workers in 1920, but the trend is quite clear.

23. Lendol Calder, *Financing the American Dream* (Princeton, NJ: Princeton University Press, 1999), 155.

24. Calder, *Financing the American Dream*, 197.

25. Calder, *Financing the American Dream*, 201.

26. Instalment plan spending grew at an annualized rate of 14.9% (Calder, 201) compared to 6.2% annual growth for GNP (*Historical statistics of the United States*; Series Ca188).

27. Calder, *Financing the American Dream*, 124-141.

28. Alex Dunbar, "Instalment Buying," *Bankers' Magazine* 113, No. 1 (1926): 11-14, 78-79.

29. J. R. Sprauge, "Sales Resistance Stiffens," *The American Mercury* 4, No. 14 (1925): 215-220.

30. Calder, *Financing the American Dream*, 240.

31. E. R. A. Seligman, *The Economics of Instalment Selling: A Study in Consumers' Credit* (NY: Harper & Bros, 1927), 140-141.

32. "Economic abuses blamed for crisis [editorial]," *New York Times* (December 4, 1932): N11.

Alongside these legislative, technological and finance industry changes was debt's constant discursive companion: moralization. This essay examines three case studies to demonstrate how moralizing discourses are deployed as part of the finance industry's efforts to protect debt-assets. First, it examines how sentiments of community and trust were used within minority communities, which were disproportionately targeted by subprime lenders. Second, it considers debt collection practices that appeal to both individualist and republican ideals. Third, it considers the density of payday lenders in areas where citizens' moral codes are likely to be susceptible to creditor appeals.

The naming of riskier borrowers as subprime had an obvious instrumental purpose: it distinguished their pertinent credit information and guided the terms of their debt-relationship. However, it also drew upon the credit bureau's process of ranking and labeling. Early credit reports were descriptive and non-standardized. Many of their descriptive terms became moralistic proclamations as they intersected with public discourse: good for nothing, A1, small fry, dead beat.[37] The prime/subprime distinction follows on the credit bureau's designation of people as first, second or third rate, according to their capital, character and capacity. The location of a person in a hierarchy of quality was meant to aid in setting credit terms.

The credit agency was founded upon the ideal of objectively locating a person's true identity. Sandage notes that the Mercantile Agency's storefront was near two other business that shared the goal of "observing, recording, and selling the distinctive traits of individuals:" the daguerreotype and the phrenologist.[38] Character was assessed as an objective feature of the person. Barry Cohen observes that "[c]haracter lost its salience as a defining term for assessing credit in part because good character was both fairly universal as well as stable, which made it lose its market value."[39] While the focus moved to the more observable and quantifiable facts relevant to the debt-relationship, moral assessment remained. Observable quantities stood in for character; a man's qualities became synonymous with his quantities.

The prime/subprime distinction emerged in an era when all the quantities of the individual were distilled into a single number: the FICO score. The line between the most and least worthy exists at a discrete value: 620. However, the line was not strictly observed. Certain demographic classes were disproportionately designated as subprime. In particular, African-Americans, Hispanics, women, disabled people and the elderly were targeted as subprime even if objectively qualified as prime borrowers.[40]

The relationship between creditors and people of colour has long been contentious. Well into the 20th century, there were no laws against lending discrimination on the basis of race. Banks engaged in a practice known as redlining. Residents from minority neighbourhoods were automatically denied loans. As the accumulatory struggle of the finance industry led it to the creation of more debt-assets, it required more debtors. The more debtors enroled at subprime rates, the greater the potential rate of return. With the end of credit rationing, redlines served a new purpose: they attracted subprime lenders. Minority communities, traditionally underserved by mainstream commercial banks,[41] have many reasons to be wary of mainstream lenders, not least the legacy of discrimination.

Recent minority lending practices have played on moral themes of community and trust. By physically operating within minority neighbourhoods, employing members of minority groups and presenting their lending options as the only option, subprime lenders represented themselves as performing a community service. They appealed to community-mindedness and a long tradition of treating credit extension as a favour.[42] Even without direct evidence, it is not hard to imagine that lenders knew of the general mistrust of traditional banks. Their appeals to potential debtors could play upon this mistrust. Their self-portrayal as a local alternative obscured the fact would sell debt to a commercial bank for repackaging into securities. The transformation of a borrower with prime qualities, and hence at low risk of default, into a subprime individual, subject to higher interest rates, prepayment penalties, and more complicated terms, increased the value of the individual as an asset. Moralizing discourse around community and trust worked to perform this transformation. The debtor, unaware of his or her quantitative status—a FICO score over 620—could be dissuaded from seeking more personally advantageous borrowing terms by an appeal to his or her sense of community. The need to repay the debt comes from the same community mindedness. This may work to reduce the risk of default, or at least to keep payments flowing as long as possible before default occurs. In the event of default, it becomes the debt collectors' turn to entice repayment, and moralizing discourse is the base from which collection efforts begin.

The US has laws against debt collection practices such as using abusive language, making repeated calls within a short timeframe and revealing the details of debt to third parties. Of these practices, only the revelation of debt to third parties has an explicitly moralizing element. In the documentary *Maxed Out*, a debt collector talks about the practice and claims incorrectly that it is not illegal. The purpose of these revelations, as explained by two separate collectors, is to embarrass the debtor. Both collectors employ this tactic early in their collection efforts if they are having a hard time getting in touch with the debtor. The sense of shame is supposed to motivate payment. This tactic appeals to sense of community and to the value of personal responsibility. Individuals are made ashamed of their failure to live up to commitments. Insults are frequently rooted in claims that the debtor is a moral failure. Almost 150 years after the credit bureau invented the term dead beat, debt collectors continue to apply it.

Ralph Waldo Emerson asserted that "nobody fails who ought not to fail. There is always a reason, *in the man*." As Scott Sandage notes, this dictum "combined market logic and moral creed."[43] It is the individualist ideal at its purest. The failure to live up to the ideal is also meant to induce shame that derives from one's participation in a community. The seeming conundrum of American individualism and republicanism is resolved in the concern over debt and the obligations to repayment individuals take upon themselves. Far from a simple economic relationship, debt collectors wrench earnings from borrowers by appealing to their moral codes.

Two extraordinary papers by Steven Graves and Christopher Peterson examine moral codes and debt. In "Predatory Lending and the Military," the pair examines the high density of payday lenders around US military bases.xliv This research actually led the military to lobby Congress for a 2006 law that protects military personnel from the usurious rates charged by payday lenders.[45]. In "Usury Law and the Christian Right," Graves and Peterson show that areas with strongly observant fundamentalist Christian populations also tend to have greater numbers of payday lenders.[46] The pair refrains from suggesting why these relationships exist. However, it may have to do with the existing moral codes of the targeted populations. Both Christian and military organizations appeal to moral codes that draw on the dual American values of individual and republican responsibility. The US Army's former slogan, 'An Army of One,' captured both sides of the American ideal: the army is a single unit, composed of single units. Without the individual, there is no army; without the army there is no individual. Fundamentalist Christian doctrine embraces both individualistic free market ideology and community-minded adherence to the message of Christ. A sense of obligation and personal responsibility is likely a major component of the moral codes for both American soldiers and fundamentalist Christians. This makes them ideal borrowers; they are likely to do everything possible to meet their debt and repayment obligations.

Accumulation is a complex process. It cannot be reduced to any one facet of society, not even labour and production. In their struggle to accumulate, capitalists will leverage any institution, including existing moral codes. To understand how capitalists realize profits from property, then every ordering mechanism under their control, including moralizing discourse, must be examined.

## 6 Conclusion

The recent subprime mortgage crisis combines three words that trace interesting discursive and practical histories within the institutions of Western capitalism.

*Crisis*. Many like to claim that the Chinese word for crisis—weiji—includes the word opportunity as one of its component parts. This fallacious piece of Orientalism demonstrates a feature of the capitalist mindset. The current state of the Western political economy has provoked an unmitigated crisis for those at the bottom of the hierarchy, who are experiencing foreclosure, unemployment and other attendant ills of a downturn. However, the experience is different for those at the top. For them, the crisis has truly been an opportunity. Although Citibank and Bank of America lost common equity value, their survival through US government intercession foretells the potential for even greater success, profit and power. Differentially, the Big 4 have gained against their FIRE compatriots. A crisis of capitalism will only come in the form of a threat to the legitimacy of capital as a mechanism of vendible ownership and control. Short of that, every crisis presents a differential opportunity and will only be a crisis for some.

*Mortgage*. *Mort gage*: Death grip. The actual etymological history of the word does not reveal the appealing literal translation that serves as this article's title. *Gage* was more properly understood as 'pledge.' The original roots of 'mortgage' may have described the low likelihood that the debtor, having pledged his property against the debt, would ever make full repayment. In today's context of interest-only payments, 2-28 adjustable rate mortgages, and other mechanisms that have proved too burdensome for many, the translation of this word as death grip is appropriate. Given the desirability for owners of debt-assets to keep people indebted, barely making interest payments, only death becomes the horizon of release.

*Subprime*. Like a scarlet letter, the label subprime denotes the unworthy, those not deserving of the choicest of rates and those deemed risky and financially unsavoury. However, subprime borrowers were desirable. Lenders went out of their way to attain these high-return assets, reverse redlining and courting subprime clients. They salivated at the prospect of rolled-over debt, unending interest-only payments subject to skyrocketing rates and default and resale while prices were rising. Demand for securities backed by subprime loans rose drastically as investors sought to beat the average and earn the slightly greater margin. Of course, the differential struggle proved a bust for some. The jump in interest rates provoked by the Federal Reserve and the upward adjustment of rates on large numbers of 2-28 mortgages led to a wave of defaults. Market participants fled from these tainted securities even though four-fifths of subprime borrowers continue to make payments and more might have done so with renegotiation. Between falling housing prices and second mortgages, many subprime borrowers are now carrying negative equity. For them, it would make financial sense to walk away from their loans. A certain percentage will be allowed to fail, mainly from the five percent of borrowers with subprime adjustable rate mortgages. The rest will be made grateful for the opportunity to renegotiate: lenders will tout their own good deeds and community service, their concern for the borrower and their wish to enable correct behaviour. Overdue payments will be tacked on as principal. The foreclosed will be tokens of 'there but for the Grace of God.' Eventually the precipice over which many peered will fade, and the reason for failure will again be found 'in the man.' It is unclear how finance will react. The technologies that made the targeting of subprime individuals possible remain in place. The legal apparatus will certainly change. The subprime individual remains assessed as such. In fact, many more of us are likely to be branded subprime, or its post-crisis equivalent, and be forced to acquiesce to punitive terms. That lenders will seek to transform our low standing into high return debt-relationships seems certain, as the quest for accumulation is unending. The precise form the new debt-relationship will take, and the effect it will have on borrowers is uncertain.

Debtors as assets are treated just like every other asset in terms of their contribution to accumulation. They are capitalized based on expected earnings, discounted for risk. This makes them divisible and vendible through securitization. Prior to the recent crisis, subprime debt-assets were highly valued both because of 1) their potential for higher earning streams due to interest-only payments, prepayment penalties, long amortization periods and other mechanisms and 2) low assessed risk due to belief in the effectiveness of technologically informed risk management through securitization. The crisis provoked a drastic downward revaluation as the risk perceptions associated with subprime borrowers moved higher. However, like every other asset, the qualitative processes that determine earnings are particular and unique. There is no reduction from observable quantities to unobservable quantities. Instead, as Nitzan and Bichler argue: "To understand capitalism… is to decipher the link between quality and quantity, to reduce the multifaceted nature of social power to the universal appearance of capital accumulation."[47]

Debt-assets may be alone in the direct role that moralizing discourses can play in both generating and protecting value. This examination of moralization within the debt-relationship focuses on fairly insignificant players in terms of the hierarchy of capitalist power. No subprime lender, payday lender or debt collection agency is among the Fortune 500. However, these entities play essential roles in the value creation and protection that contributes to the power of financial companies at top of the corporate hierarchy. Moralizing is just one more instrument in the re-ordering of power that constitutes the accumulatory struggle within capitalism. Subject to the scapegoating of the pundits, most of those in debt undoubtedly feel a responsibility to meet their financial obligations and remain within the death grip. When this scapegoating combines with the personal-level interactions of the debt-relationship, including both moralizing discourses and refinancing on new terms, many debtors will choose adherence to their moral codes of republican and individual virtue, including their military and Christian varieties, over the liberation from debt that would come with default and bankruptcy. Debtors will remain valuable assets for the owners of debt while moral codes persist within the capitalist architecture.

D.T. Cochrane is a father, partner, teacher and PhD student. Among his research interests are business disruption campaigns and their effect on accumulation.

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34. see Robert Manning, *Credit Card Nation* (NY: Basic Books, 2000) for one example.

35. Louis Hyman, *Debtor Nation: How Consumer Credit Built Postwar America* [dissertation] (Cambridge, MA: Harvard University), xiv-xv.

36. Patricia A. McCoy and Elizabeth Renuart, "The Legal Infrastructure of Subprime and Nontraditional Home Mortgages," in *Borrowing to Live: Consumer and Mortgage Credit Revisited*, eds. Nicolas P. Retsinas and Eric S. Belsky (Washington, D.C.: Brookings Institution Press, 2008), 116-117.

37. Sandage, *Born Losers*, 131-134.

38. Sandage, *Born Losers*, 113-114.

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42. Kathleen C. Engel and Patricia A. McCoy, "From Credit Denial to Predatory Lending: The Challenge of Sustaining Minority Homeownership," in *Segregation: The rising costs for America*, eds. James H. Carr and Nandinee K. Kutty (NY: Routledge, 2008), 93-94.

43. Sandage, *Born Losers*, 46.

44. Steven Graves and Christopher Peterson, "Predatory Lending and the Military: The Law and Geography of 'Payday' Loans," *Ohio State Law Journal* 66, No. 4 (2005): 653-832.

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46. Steven Graves and Christopher Peterson, "Usury Law and the Christian Right: Faith-based Political Power and the Geography of American Payday Loan Regulation," *Catholic University Law Review* 57 (2007): 637-700.

47. Nitzan and Bichler, *Capital as Power*, 124.