

FOREWORD

In April, the *Denver Law Review* hosted its annual symposium, entitled *Debt and Financial Insecurity in the Modern Economy*. During the Symposium, students, attorneys, and scholars explored debt and consequent financial precarity as the defining element of American life. Consumer debt—credit cards, student loans, mortgages, and medical debt, to name a few—have become a means of survival, and in many ways a requirement in American society. The only way to progress is to incur debt, and lots of it. Panelists considered the pervasive and perhaps pernicious nature of debt, and its explosive growth under capitalism and neoliberalism.

The premise of the Symposium was to explore the social, legal, and financial implications of a debt-laden society. That exploration was vast, spanning multiple disciplines and practices of law. The Symposium explored how capitalism informs labor law, bankruptcy law, environmental law, affordable housing policy, homelessness, and criminal justice. Speakers discussed the role of artificial intelligence in the practice of law and how it will form the workforce in coming years. Panelists discussed the granular details of debt and identity, including an informative discussion on credit scores and the sociological impacts of bankruptcy and indebtedness. Spanning two days and eleven panels and events, the Symposium endeavored to provide an expansive discussion of capitalism and bring to life the implications of our economic system on the law. The five articles included in this issue expound upon those conversations.

First, in *How Traditional Legal Rhetoric's Myth of Neutrality Sustains Capitalism*,¹ Professor Elizabeth E. Berenguer examines how traditional legal rhetoric sustains capitalism. Through an analysis of *Bank of America v. Caulkett*, and *Citizens United v. Federal Elections Commission*, Berenguer identifies how courts reach outcomes that align with capitalist ideologies, presenting rationales as objective and neutral. Berenguer posits that neutrality under traditional legal reasoning is a myth, and that legal analysis should incorporate insurrection rhetoric to truly solve inequality.

Next, in *The Social Cost of Unpaid Student Loans*,² Professor Brook E. Gotberg and Evan Miller explain the unforeseen costs of the student loan industry, including costs borne by taxpayers. From the perspective of the government as the creditor, their article contends that policymakers should consider taxpayer interests when creating student loan policies, particularly around issues of repayment and forgiveness. The article also

1. See *infra* pp. 721–54.

2. See *infra* pp. 755–92.

unpacks commonly held assumptions about student loan borrowers, education costs, and the burdens of debt. Ultimately, Gotberg and Miller posit that bankruptcy law should be restructured to aid in the resolution of student loan debt.

Then, Professors Daniel Auerbach and Brett Clark explore the relationship between economic growth and ecological disruption in *Monopoly Capital, Militarism, and Environmental Design*.³ Auerbach and Clark contend that the military and the economy are inextricably linked through the rise of the military industrial-complex, making militaries a strong force in environmental degradation. The article uses the creation of weaponry as a lens through which Auerbach and Clark analyze the environmental impact of the American military.

In *When the Entrepreneurial Subject Fails: The Neoliberal Governance of Consumer Debtors*,⁴ Professor Michael D. Sousa argues that there is a lack of knowledge about how neoliberalism impacts individuals and causes individuals to incur personal debt. Through a series of thirty-six personal interviews, Sousa attempts to close this knowledge gap and posits that neoliberal governance serves “to both discipline and recenter debtors as responsabilized entrepreneurial subjects who will reenter the economy and once again turn to a state of credit dependency.”⁵

Finally, in *Financial Identity in the American Credit System: The Habitus of the Debtor*,⁶ Professor Linda Coco explores the vastness of the American credit system and its power to form debtor’s individual identities. Credit identities, Coco posits, “assume a sense of personal responsibility”⁷ and are a mode of control over individual behavior. The external structures that form these identities (banks and other lending institutions) also inform an individual’s ability to find housing and transportation, and even their ability to exercise individual freedoms. Coco expounds upon the fact that individuals, not financial institutions, suffer due to their internalization of the external structures of market capitalism.

We hope that scholars and practitioners alike agree that the articles included in this Symposium issue raise interesting and worthwhile questions regarding the impact of capitalism on the law—that the questions and arguments contained herein will encourage debate and thought, commentary, and discussion through not only a legal lens, but also a social and economic lens. On behalf of the *Denver Law Review*, thank you to our panelists, speakers, and attendees for participating in the 2024 Symposium.

Emily Sexton
Symposium Editor, Volume 101

3. See *infra* pp. 793–816.

4. See *infra* pp. 817–47.

5. See *infra* p. 817.

6. See *infra* pp. 849–77.

7. See *infra* p. 851.