

# Chapter 8

## The Wicked Problem of the Student Loan

*Race and the State's Obligation to Lend*

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### Abstract

The student loan sits at the nexus of neoliberal reforms in higher education. This chapter addresses the role of race in driving neoliberal reforms in bankruptcy laws and student lending practice in the late 1990s and 2000s. In exchange for opening access to higher education to racial and ethnic minorities, the state ceded its obligation to fund higher education and embraced its obligation to lend. This shift from the state's obligation to fund to the state's obligation to loan was made possible because white-private citizenship changed the meaning of debt and, by extension, the obligation between the student loan debtor and the state as the creditor.

On 11 June 1963, George Wallace, flanked by Alabama's Highway Patrol and surrounded by members of the media, stood in the doorway of Foster Auditorium on the campus of the University of Alabama and declared "segregation now, segregation tomorrow, segregation forever" in a hyperbolic and symbolic protest of two African American students, Vivian Malone and James Hood, who were there to register for classes. They were the first two Black students to successfully enroll in the University of Alabama since Autherine Lucy did in 1956. Lucy's enrollment only lasted three days. The university expelled her to keep her safe from violent white mobs. Malone and Hood were part of a movement in the early 1960s to desegregate America's public universities. In 1963, the average price a student paid for tuition and fees was \$234 or \$929 if you wanted to dorm (NCES, 2013). That

equates to \$1979 and \$7857 in 2020 dollars. Fast forward to August 2020. Black members of The University of Alabama's football team led a march in support of the Black Lives Matter movement that swept the country in response to police brutality and police killings of Black men and women that year. The team's white head coach participated in the march. The mostly white administration defended the players' protest in response to public criticism from various whites, some of which were local, some alumni, and some just fans of the team. In 2020, about 76% of the University of Alabama's student body was white. In-state tuition was over \$11,000, while out-of-state tuition was about \$31,000. It will set a student back another \$18,000 to dorm, bringing the price tag for one year of college for an Alabama resident to over \$30,000. Roll tide.

The above example illustrates three interrelated dimensions of the wicked problem of student loan debt. The first is that higher education continues to be plagued by racism. While the civil rights era of desegregating colleges and universities is in the past, Black students continue to be the victims of symbolic white violence and face racial barriers and subtle forms of exclusions while attending college. The second is that the political-racial context of the civil rights era and the modern neoliberal one created different kinds of barriers to higher education. The new barrier to higher education is realized in the form of an economic gamble many working and middle-class students take: will the benefits of a college degree outweigh the costs of borrowing money to obtain the degree. The third point, which is conditioned on the racial pretext needed to drive neoliberal reforms, is that the price to attend college has gone up astronomically, especially since the 2008 Great Recession. Subsequently, so has student loan debt. It is not as simple to say that the increased enrollment of racial and ethnic minorities drove up the cost of college or created the ensuing problem of student loan debt. Rather, the increased cost of college is the result of austerity towards higher education budgets and the deregulation of the student loan system in the 2000s, both of which were dependent on the notion of white-private citizenship that underwrites the contemporary neoliberal project.

As a wicked problem, student loan debt is hard to define and presents itself as an unsolvable problem because the mechanisms driving student loan debt are not as simple as focusing on the ag-

gregate amount of student loan debt and cannot be solved simply by abolishing existing student loan debt. This chapter explains how the problem of student loan debt emerged from the state response to the increased racial and ethnic minority enrollment in higher education. In exchange for opening up access to higher education to racial and ethnic minorities, the states ceded funding and freed itself from its obligations of citizenship. Similar to how white-private citizenship provided the pretext to restructure neoliberal economic policy and social welfare in the 1980s and 1990s, it provided a discursive framework to deregulate bankruptcy laws and student lending practices in the 2000s. White-private citizenship is the idealized or symbolic form of good neoliberal citizenship based on obligations toward the self, making personal responsibility synonymous with success and securing economic rights at the expense of social rights (Hohle, 2018, pp. 44–50). This new idealization of white citizenship provided the moral justification for the states to relinquish its obligation to fund while the federal government strengthened its obligations to lend. The result was Educational Gap Funding (EGF), defined as the difference between the public funding the remaining cost obligations for students in higher education. Individual students and their families assumed the role of good citizens by taking on the financial burden and responsibility to pay for college and fill this EGF. In short, the wicked problem of student loan debt is that higher education financing relies solely on a logic of good white citizenship that organizes a system of legal prohibitions, moral codes, and asymmetrical obligations pertaining to debtors and creditors.

## Race and Student Loan Debt

Student loan debt is a subsection of consumer debt. At the end of 2020, student loan debt comprised \$1.56 trillion of the \$14.56 trillion household debt incurred by Americans (NYFed, 2021). Student loan debt is the second-largest category of debt behind home mortgages. The growing costs of higher education corresponded with two notable and interrelated developments in the 21st century. The first was the increase in racial minorities entering higher education that began in 2000. In 1990, whites comprised about 80% of college students. That proportion steadily declined to 55.2% in 2018. Conversely, Black college enrollment remained below 10% of all college students until

2000, when Black students comprised 11.7% of all college students. In 2018 Black college students made up 13.4% of all students enrolled in higher education. Even more significant was that the proportion of all racial and ethnic minorities attending college increased from 20.1% in 1990 to 29.2% in 2000 and grew to 44.8% in 2018 (NCES, 2018).

The second development was how states cut back on their funding of higher education and the deregulation of the federal student loan system in the 2000s. The precursor to the explosion of student loan debt was a series of changes to bankruptcy laws that made discharging student loan debt almost impossible while expanding of the number of lending options and loan programs available to students. Without any real possibility to default on the student loan, both the federal government and private lenders eagerly lent money to students and their families. The 2008 Great Recession led states to cut back their funding to public universities by about 20% from 2008 to 2013 (Pew, 2019). In 2019, state funding to public universities and colleges was still 8.7% below its 2007 level, and states have only restored 63.5% of the total funding since the recession (SHEEOA, 2019). Although state funding was down, federal funding to higher education increased since the recession. Public universities and colleges opted to replace the lost revenue with tuition increases, and students and their families relied even more on loans and grants to cover tuition. Pell Grants were up 12%, and federal loans increased 26% between 2017 and 2018 (Pew, 2019). Student loan debt is the only form of consumer debt that has not returned to its pre-recession levels.

Why did the states respond to increased racial diversity in higher education with funding cuts for public universities? Why did the federal government create a student loan system that shifted all of the risks of lending and the burden of paying for college on students? Why has the supposed race-neutral lending system created racial disparities in who borrows and who can pay it back? The answer to this question requires us to think beyond the aggregate numbers and total debt and focus on what is driving this EGF.

Black borrowers, including individual students and their families, face many hurdles in trying to repay student loan debt compared to white borrowers. Scholars analyzing the relationship between racism and student loans have found that Black students are more likely to take out student loans than whites, borrow more than white students,

are more likely to default on loans, have a harder time paying back loans, and have a higher proportion of student debt to household debt (Jackson & Reynolds, 2013; Addo Houle, & Simon, 2016; Seamster & Charron-Chenier, 2017). On the one hand, the fact that Black students rely on student loans and have a more difficult time than whites repaying loans is due to the long history of systemic racism in the economy, which directly impacted Black family wealth (Bonilla-Silva, 1997; Feagin, 2006; Addo, Houle, & Simon, 2016). Oliver and Shapiro (1997) refer to debt like student loan debt as an intergenerational problem that creates racial sedimentation instead of upward social mobility.

On the other hand, the predatory nature of student loan lending is institutional, as Black students borrow more to enter postsecondary education, are steered toward for-profit colleges, and are offered less aid (Addo, Houle, & Simon, 2016; Seamster & Charron-Chenier, 2017; Cottom, 2017). Therefore, the exacerbating racial disparities between Black and white students loan debt is rooted in the historical and structural effects of American racism. However, racism has been a hallmark of American society since its founding, so the relationship between racism, wealth, and debt should be taken as a given. The question remains as to why the student debt problem arose when it did in the 2000s.

Another set of literature on student loan debt focuses on what was unique about the late 1990s and 2000s that created this problem of student loan debt. Best and Best (2014) argued that student loans are actually a series of problems rooted in how Americans associate education with individual economic success and meritocracy and how a private loan industry emerged that was more than willing to lend money to fund these aspirations. Best and Best divide the history of student loans into four overlapping historical periods. They see the emergence of each period of student loans as an unintended consequence of trying to address the problems of the previous era. The first era corresponds to the federally subsidized student loan program that began in 1958 and lasted until 1972, when the federal government created The Student Loan Marketing Association, popularly known as Sallie Mae, to guarantee student access to loans.

The second was the rise of student loan defaults during the mid-1960s until 1978. The third period, the era of crushing debt, was from

the mid-1990s to 2008. The fourth era began after 2008, which they characterized as a student loan bubble that may create widespread economic damage. Similarly, Goldnick-Rabb (2016) argued what was different about the 2000s was the combination of meritocracy that was supported by the federal government that views higher education as the only pathway out of poverty. This was not the case in the 1960s when Congress passed the 1965 *Higher Education Act* and invested in anti-poverty and job training programs, and state funding for higher education tripled between 1961 to 1979 (Goldnick-Rabb, 2016, p. 13).

State funding began its long decline in 1981. Rather than focus on meritocracy, Cottom (2017) focuses on how the modern economy demands credentials. The modern higher education system monopolizes the selling of credentials alongside its monopoly of prestige. Although Cottom (2017) focused on for-profit colleges, she showed that the financialization of higher education shaped “the size and logic” (p. 15) of all student lending and debt in the 1990s and 2000s.

My contribution to this debate is to rethink the wicked problem of student loan debt by analyzing how the language of white-private restructured the institution of American citizenship, which changed the state’s obligations to its citizens, including its obligation to fund higher education. To do so, this essay bridges the gap between the importance of looking at the historical context of student loan debt and the literature on racial disparities in student debt. The limit of focusing on the structural differences is that it is unclear how the federal government’s pragmatic response to problems in student loans is related to the change in cultural values that overemphasizes meritocracy. Did the change in policy create the cultural change, or is it the other way around? Nor is it always clear what is driving these cultural shifts or how these cultural changes are institutionalized in broader political and economic policy.

In short, there is a tendency to view the contextual differences in race-neutral terms, where the racial disparities are a symptom of a broken system rather than a core problem of the system. In contrast, the literature on racial disparities leans on the latter as the real problem with student loans, but it does not answer the question of why student loan debt the problem it became in the 2000s, given that racism has been a constant in America. We cannot overlook the data that points to a correlation between the increased racial and ethnic

diversity in higher education and declines in state funding (Chun and Feagin 2021), nor should we isolate changes in federal student loan lending practices and state funding from the long history of neoliberal financial deregulations (see Hohle 2018: 78-107).

## Racial Languages and the Obligations Between Citizens and the State

The white response to the black civil rights movement institutionalized the racial language of white-private/black-public into America's political economy and served as the pretext to American neoliberalism (Hohle, 2012; 2015; 2018). I focus on racial languages in order to map out the relationship between a given society's concept of race within a given political or economic field. A racial language involves both epistemological and ontological properties of racism. Racial languages create the meanings that organize and restructure relationships between concepts, which in turn defines how we classify, define, and rank material attributes like spaces and bodies, as well as non-material social statuses, like citizenship, that serve as the basis for the distribution of material resources. A racial language like white-private takes the positive meanings "white" and links it to "private" to redefine the meaning of and social value of private. The positive meanings of white originated in how whiteness was historically created in relation to blackness and subsequently functions as a generic and flexible cultural white racial frame that gathers desirable cultural attributes under a conceptual umbrella of white (Du Bois, 1969; Feagin, 2013). The meaning of and how we value what is private is enhanced by its link to the racial meaning of white. Once cemented with white, private is no longer just contrasted to the notion of what is public. The meaning of white-private is relational to its opposite, black-public. The negative meanings of "Black" devalue the meaning of "public". Therefore, a white-private political economy is not only characterized by racism and racial inequality; it also undermines the meaning of the public good and whites' willingness to support and engage with the public.

The advantage of looking at how racial languages impact a given domain is that it moves beyond the simple racial dichotomies of white and black that limit structural accounts to racism. For example, a basic approach to racial inequality is to start with how racism creates the negative meanings of white and Black and then apply a universal

application of white privilege that corresponds to a grand narrative or ideology of inequality. This is the approach to color-blind racism: racism works through ideology but is hidden in the text, decision-making, and social policy, which in turn creates the false impression that racial outcomes result from non-racial dynamics (Bonilla-Silva, 1997; 2017). Racial ideologies are used to justify or rationalize racial inequalities, specifically by denying that race matters. In this regard, like any ideology, a racial ideology plays a supportive role in its corresponding racial structure or context.

In contrast, racial languages create and sustain a given racial-political field because the order of and the relations in the field are dependent on its racial meanings. This includes the dominant and subjugated knowledge and social categories within a given field and their relations with other social entities. Rather than a grand narrative of inequality between white and Black, racial languages create the conditions that lead to 1) the formation of racialized systems that works to the detriment of ordinary white and Black actors, and 2) creates specific points where we find concrete struggles between inclusion and exclusion, which capture the more abstract power conflicts and alliances that sustain a political field (see Fligstein and McAdam, 2012).

The idea of national white-private citizenship formed throughout the 1980s and 1990s. Citizenship refers to what it means to be a member of a political community and its national identity (Anderson, 1991; Brubaker, 1992; Kymlicka, 1996). American citizenship also entails notions of who is and what counts as good citizenship (Alexander, 2006; Hohle, 2013). White-private citizenship emerged as the new signal of good white citizenship. It is an ideal of citizenship achieved through personal responsibility, moderation in spending, financial independence, and one who does not rely on the public sector for sustenance or success. White-private citizenship is as much mythology as an ideal.

Nevertheless, it is a powerful cultural trope when embedded in citizenship. What and who counts as good citizens influences the allocation of public capital, how public institutions are funded, if at all, how a regulatory framework benefits private capital, and systems of taxations that benefit the wealthy and elites, both of which are almost exclusively white. The idealization of citizenship also shapes the obligations between citizens and their state as it applies to funding higher

education.

## The Obligation to Fund Versus the Obligation to Lend

The difference between a state's obligations to fund versus a state's obligation to lend is tied to the form of obligation that emerges from the meaning of debt. By its very definition, obligations are relational. Citizenship involves the exchange of rights and obligations between individuals and the state, like paying taxes and military conscription, in exchange for economic or social rights (Tilly 2005). There are two meanings of debt. One meaning of debt is economic: the money that an individual, family, or organization owes to a financial lender. The other meaning of debt refers to how the relationship between debtor and creditors creates larger cultural meanings of guilt and obligations (Graeber, 2011). For Mauss (1990) gift-giving systems are defined as obligatory and reciprocal economic exchanges between two parties. The obligation to return a gift creates a moral component to the exchange, found in the unspoken pressure to return the gift. A loan is both a gift and an economic contract whose repayment terms are enforced by the state. The federal government's student loan system has features of a gift-giving system.

As Healy showed in his study of organ and blood donation, gift and market exchanges may work on different principles, in that gift systems are obligatory and market exchanges are voluntary and governed by contracts, but "long-term relationships within the market may have many of the features of gift exchange, despite the fact that contracts nominally govern its transactions" and that certain amount of anonymity exists between exchanges in modern gift-giving systems and markets (2006, p. 17). This anonymity should theoretically weaken the moral obligation for individuals to repay the debt while the state created more efficient lending systems, especially in the "monocratic form" of the state bureaucracy that allows for debt collection to function anonymously as it does with tax collection (Weber, 1958, p. 214). The racial meaning of good citizenship ensured that did not happen.

In a student loan system rooted in white-public citizenship that claimed to be universal citizenship, the state fulfilled its obligation to fund public higher education in exchange for optimizing the labor of its citizens. The obligation to fund is tied to the obligation to pay taxes, and the language of white-public created a political economy where

whites paid taxes to the state and the state upheld their obligation to fund public entities. For example, the federal GI Bill, which as part of the 1944 *Servicemen's Readjustment Act*, provided funding through direct grants to veterans to obtain a college degree. The 1946 Truman Commission argued that the state should expand its financial state in supporting higher education. The 1958 *National Defense and Education Act* (NDEA) loaned money to colleges, which then extended loans to students. NDEA loans were capped at \$1000 a year. Publicly financed and tuition-free community colleges were established in the 1960s. In New York State, the SUNY system only began charging tuition in 1961, and CUNY followed suit in 1965. Because New York State continued to provide adequate public funding, SUNY and CUNY tuition remained affordable. Thus, states and the federal government were fulfilling their obligations to fund higher education and the result was small and easily manageable student loan debt loads.

The current federal loan system is based on the state's obligation to lend. Since it is freed of the responsibility to fund, lending sets up a new relationship between citizens and the state. Gifts are not a pure commodity, so repaying a student loan is not as simple as feeling the financial pressure to pay the loan. In part, this is because gifts are also partly loans. They are partly loans because there is no clean transfer of possession from one person to another and there is an expectation that the gift will be repaid. The obligations to repay the gift in kind creates a sense of debt. As Nietzsche (2000) explained in *The Genealogy of Morals*, debt and responsibility have the same history. The major moral concept guilt, *schuld*, has its origins in the word debt, *schulden*. As society made man into a rational and calculating being, individuals were thought to possess free will and the right to make promises to the self and others. As one makes a promise to repay a debt, the obligations between the debtor and the creditor create a system of morality. As societies became more complex, the creditor's right to reclaim the debt by taking something else, like the creditor's body, wife, freedom, or life itself, was replaced by the formation of a guilty conscience. As Graeber noted, the reframing of relations "in the language of debt... immediately makes it seem that it's the victim who's doing something wrong" (2011: 5). A state does not feel guilt. Only an individual can feel guilt. However, guilt can be institutionalized in good citizenship. Borrowers want to be good citizens, and good citizens repay their

financial debt. They want to give back even in a situation where it is rational to default and discharge the debt. However, the state's only responsibility in student lending is to lend more, not to forgive the debt. Forgiveness requires the preexisting aura of guilt or empathy that is not a characteristic of the state. Once the responsibility to fund is replaced by the responsibility to lend, the state creates a new system of laws and regulations that eliminates the rational thing to do – discharge the debt – in relation to optimizing its capacity to lend.

The origins of the state adopting an obligation to lend appeared in the mid-1960s and early 1970s. It was in response to Black and other racial and ethnic minorities enrolling in college. However, there was not a significant number of non-whites entering higher education to cause the state to completely walk away from its obligations to fund. Rather, the federal government created a student loan system to bridge the EGF. For example, in 1965, Congress passed the *Higher Education Act* and created the Federal Family Education Loan (FFEL) program that federally backed student loans.

The federal government had similar success guaranteeing home mortgages. The big change occurred in 1973 when the Richard Nixon administration created Sallie Mae. As a government-sponsored enterprise, Sallie Mae purchases student loans through the sale of federal bonds. Sallie Mae's profitability was in the interest rates, so even though low-interest rates were good for students, it was bad for Sallie Mae. After deregulating bankruptcy laws to prevent an individual from discharging his or her student loan debt in 1976 (see below), the obligation to pay for college shifted quite a bit to the individual. States took notice of the federal government's willingness to lend and the changing demographics of their student body. They reduced public funding for their public universities and comprehensive colleges. From 1980 to 2018, the average cost of college tuition and fees, which increased 247% when adjusting for inflation, increased 19 times faster than the average family income (see Chun & Feagin, 2021). The reduction of funding led public colleges and universities to rely more on tuition and fees, which rose from 20.9% in 1980 to 46% in 2019 (SHEEOA, 2019). The only way to cover the increased cost of college was to borrow money.

## Deregulating Bankruptcy Laws and the Student Loan

Congress historically lumped student loan debt with other forms of consumer debt, such as debt accumulated through medical bills and credit card debt. This classification implies that any negative connotations associated with the irresponsible debtor extended to all forms of debt. Therefore, the institutionalization of white-private citizenship pertaining to the good debtor reformed bankruptcy laws regardless of the type of debt. On the occasions when Congress has focused on student loan debt as an autonomous problem, the response has consistently been to make discharging student loan debt harder. For example, one was able to discharge student loan debt until 1976. The reason was that student loan debt was treated like other forms of unsecured debt. Congress changed the law that required borrowers to make payments on the student loan for five years before they could discharge the debt. This reclassification of student loan debt as something that is neither unsecured nor secured debt effectively singled out student loan debt as a unique form of debt. This was a curious move by Congress because there was no evidence of a problem regarding student loan repayment. So, what was happening in the 1970s?

There were two main reasons why Congress made a move to reclassify student loan debt. Both reasons are tied to the racial and economic context of the 1970s. The nationalization of the neoliberal project was underway in the 1970s. The neoliberal project needs a racial pretext in the form of either a bad black citizen or a good white citizen. One typically finds elites deploying a language of black-public to deregulate, privatize, or subject social welfare programs to austerity measures (see Hohle, 2018, pp. 108–137).

In contrast, the language of white-private drove financial deregulations, especially in banking. Thus, Congress drew from the language of white-private in the mid-1970s to rationalize reclassifying student loan debt because the state had an obligation to lend rather than the obligation to fund higher education. For example, Republican Congressman Robert Michel stated the reason for the change was that “declaring bankruptcy upon graduation solely for the purpose of discharging their obligation to repay their federally guaranteed loan, thus, sticking the taxpayer with the bill for their education” (quoted in Cali, 2010, pp. 477–478). Michel created and then isolated a strawman to represent a bad citizen that was gaming the system. However,

the notion that the taxpayer was stuck with the bill signaled that the state should no longer have an obligation to fund higher education. When the state has an obligation to fund, that means that taxpayers finance higher education, they are not “stuck with the bill”. In 1976, the meaning of public as it pertained to higher education was not quite devalued as it would be throughout the proceeding decade because higher education was overwhelmingly white faculty teaching white students. Rather, it signaled a shift in the state’s obligation to lend, and new laws making it harder to discharge student loan debt protected the state and other responsible citizens from bad debtors.

The second reason was that the 1970s was the era of stagflation. Stagflation is the existence of high unemployment and high inflation. Unemployment is one factor that predicts a bankruptcy filing (Sullivan, Warren, & Westbrook, 2020). But it was not unemployment that drove these changes. Nor was it state funding. States were still funding public colleges and universities so that any EGF that existed was small enough that it could be paid with or without a loan. The problem of high inflation provided the economic rationale to deregulate bankruptcy laws to favor creditors over debtors. Usury caps were still the law of the land in the 1970s. By law, banks could only charge so much interest when lending money. Banks still lent money to their long-term clients. Despite actually losing money because the inflation rate exceeded the maximum interest they could legally charge on the loan, banks instituted a series of fees to make up for lost revenue (Peterson & Falls, 1981).

In the mid-1970s, usury caps made lending riskier to the lender rather than the debtor. Lending money to students, in general, was risky, even for the federal government, because a student tends to not have any collateral to put up, and the lender has nothing to reclaim if the student defaults on the loan. It is not like the bank, or federal government can claim a college degree and turn around and sell it like it can with a house to recoup its investment. The change in bankruptcy laws to make it harder to discharge student loan debt became the warmup act for the more comprehensive overhaul of the bankruptcy code via the *Bankruptcy Reform Act* of 1978. The *Bankruptcy Reform Act* created two options for debtors to discharge debt. One was Chapter 7, which is where you can liquidate your debt. The other is Chapter 13, which allows debtors to establish a repayment schedule

and allow the debtor to keep some of his or her private property, like a house. This system remarkably stayed in place throughout the 1980s and most of the 1990s, despite it being the golden era of neoliberal financial reform.

The next round of bankruptcy law deregulations began in the 1990s. Neoliberalism was the unquestioned political project restructuring America's political economy by then. The language of white-private and good white citizenship provided a meta pretext for the neoliberal reforms. For example, Congress created a Bankruptcy Review Commission in 1994, which created a list of 172 recommendations eventually released in 1996. A group of dissenters rejected the Commission's finding on the basis that Chapter 7 made it too easy to discharge debt, that there was no penalty for debtors who abused the discharge system, and that the law imposed too many restrictions on lenders. The reason for their dissension was that "[t]his phenomenon implies that bankruptcy relief is too easy to obtain, that the moral stigma once attached to bankruptcy has eroded, and that debtors are insufficiently counseled both about personal financial management and about the use of bankruptcy" (quoted in Jensen, 2005, p. 489). Similarly, Stephen Rothman, Democratic representative from New Jersey and member of the House Judiciary Committee said bankruptcy reform was necessary to "reinstill a sense of personal responsibility" (quoted in Jensen, 2005, p. 519). Jensen (2005) argued that this sentiment was the basic argument for the passage of the 2005 *Bankruptcy Abuse Prevention and Consumer Protection Act* (BAPCPA). But it was more than just a sentiment. The dissenters zeroed in on the lack of moral stigma attributed to bankruptcy. This moral difference surrounding debt repayment separated good whites from bad whites. White-private citizenship provided a pretext and subsequent rationale to erect a new bankruptcy system that made discharging debt not just harder but immoral and the antithesis to what it means to be a good white.

Student loan debt was caught up in this neoliberal era of white-private bankruptcy reform. The state used this moral argument of the good debtor who borrows responsibility and pays back his debt as the rationale for creating a lending system where the state no longer bears the responsibility to fund higher education. The state no longer took responsibility on who it lent to or how much it lent, or under what conditions it was lending money to students to pay for school. Its ob-

ligation was to lend.

Three important changes occurred that exemplify the state's obligation to lend. The first change occurred via the *Higher Education Amendment Act* of 1998. The change eliminated the seven-year waiting period before one could discharge his or her student loan debt that was established in 1984. The only way to discharge student loan debt was through the "undue hardship clause." The undue hardship clause came from the *1987 Brunner v. New York State Higher Education Services Corp.* In order to legally claim undue hardship, a student must meet three criteria: their loan payment prevents them from meeting a minimal standard of living, they have a medical or physical disability that prevents them from working, and they have made a good faith effort to repay their student loan. In other words, they must fit the criteria of the worthy poor who cannot provide for him or herself due to no fault of their own. This narrow classification of worthy defaulters can discharge debt because it does not threaten the distinction between the good and bad debtor. 4.1% of applicants eventually discharge some of their student loan debt. The value of that discharge is 0.3% of the total student loan debt (Educationdata.org).

The second change occurred as part of BAPCPA, which deregulated bankruptcy laws that tilted the advantage to the lenders. One of the major changes that BAPCPA introduced was the use of a means test to determine Chapter 13 repayment. Lenders still favored moving Chapter 7 bankruptcy filers over to Chapter 13. A means test calculates how much a defaulted borrower could still pay under Chapter 13. The means test does not include student loan debt (Cali 2010). Therefore, student loan debt is not dischargeable, and it is an expense that does not count toward your right to discharge other debts. BAPCPA also made private student loans no longer dischargeable through bankruptcy, which opened up the student loan market to private lenders. Private student loans immediately increased by 50% from 2005 to 2008. The private loan now complemented subsidized and unsubsidized federal student loans. After the signing of BAPCPA in 2005, George Bush, basking in the glory of another pro-banking neoliberal reform, stated, "If someone does not pay his or her debts, the rest of society ends up paying them. In recent years, too many people have abused the bankruptcy laws."

The passage of BAPCPA corresponded with a rise in Black citi-

zens filing for bankruptcy. This era witnessed an increase in the total number of the Black middle class, an increase in the number of Black and other racial minorities enrolling in and attending higher education, and a higher proportion of Black debtors filing for bankruptcy. The increase in Black debtors claiming bankruptcy corresponded with the increase in the Black middle class, but it was a Black middle class that did not have access to family wealth to protect them from exogenous financial pressures (see Sullivan, Warren, and Westbrook [2000] 2020: 41-50, Addo, Houle, and Simon 2016). Black debtors were less likely than whites to claim bankruptcy before the 1970s. However, this changed as credit markets targeted Black borrowers, especially predatory credit markets.

The changes to bankruptcy laws pertaining to student loan debt between 1998 and 2005 were brutal compared to the overall changes in bankruptcy laws at the time. The number of citizens filing for bankruptcy did increase from the mid-1980s to the end of the 1990s (Garret 2007). Reasons for the increase in bankruptcy are generally attributed to the easy availability of credit cards, increase in the number of casinos, loss of a job, or divorce. However, there were no regulatory changes to curtail private lending practices. Instead, the regulations regarding the discharge of debt were changed to maintain some protections for whites. Dickerson argued that race matters in bankruptcy filings because whites are more likely to reflect the “ideal debtor profile” of having high income and high debt, be married, and own a home, which means that the race-neutral framework of the bankruptcy code in practice “systematically favors white debtors” (2004, p. 1771). Dickerson’s characterization of the ideal debtor as someone with high wealth but a low income is a combination that only fits well to do whites who enjoyed the intergenerational transfer of wealth. As the language of white-private restructured the student loan system around the notion that good whites pay back their debts, the state created new and harsher rules preventing student loan debt discharge. The logic was that disqualifying student loan debt from discharge was protecting good whites from irresponsible others. In this case, the irresponsible others were the growing number of Black and other racial and ethnic minorities that began attending college in the 2000s.

The third change occurred when the federal government restruc-

tered the student loan programs around the neoliberal ideals of choice and freedom. In this case, it was the freedom to increase the amount of money a student and family can borrow to attend the public or private college of their choice. The federal government expanded their lending programs to offer more types of loans. This included the Parent PLUS loan and the Grad PLUS loan in 2005 that, along with private student loans, allowed parents and graduate students to acquire levels of student loan debt they could not repay and could not legally discharge later on. The federal government replaced the FFEL program and replaced it with the Direct Loan program in 2010. Under the FFEL program, the federal government backed the loans banks made to the students and their families. Under the direct loan system, the federal government made loans directly to students and their families. The direct loan program was designed to level the playing field regarding access to loans but did nothing to level the playing field regarding paying back loans. Children from poor families need to borrow more, but the realities of racism and gender discrimination in the workplace make it harder to repay the loans. The paradox is that capping loans would protect student borrowers from accruing too much debt. Still, it does so at the cost of closing education opportunities to the financially well-off and does nothing to close the EGF. This paradox is maintained by the presence of the good white debtor that supplies the moral justification for the state to fulfill its obligation to lend, and borrowers assume the guilt and obligation and responsibility to pay their debts.

## Conclusion

The wicked problem of student loan debt emerged from how white-private citizenship redefined the state's obligations to its citizens. This includes the shift from the state's obligation to fund higher education to the state's obligation to lend. Unlike other countries, American citizens do not have a legal right to education, even though the right to education, like other social rights, is an implied right. Therefore, the actual funding of education functions more like an obligation. White-private citizenship freed the state of many of its obligations of citizenship. As the proportion of Black and other racial and ethnic minorities entering higher education increased, states decreased their funding to public universities. Once the federal government made it

harder to discharge debt, they expanded their lending options and made it nearly impossible to discharge student loan debt.

My focus on how the racial language of white-private changed the meaning of citizenship, and by extension, the type and form of obligations the state has to its citizens, was meant to complement our existing knowledge of why student loan debt emerged as a wicked problem in the 2000s and the racial disparities that exist in repaying student loan debt. Student loan programs were more than just an unintended consequence of trying to address the problems of the previous era, just as the problem is more than racial disparities in debt repayment. Rather, changes to the loan programs and decreases in state funding to public universities and colleges were rooted in the rise of white-private citizenship, which acts as a racially anchored moral justification to drive anti-debtor policy changes. The neoliberal project needs a good white guy just as much as it needs a bad Black guy. The deregulation of bankruptcy laws that prevented the discharge of student loan debt was made in the name of protecting the good white guy, but really, it just protected the financial stakes of private lenders and the financial stability of the federal government's direct lending program and granted each the capacity to fulfill their obligation to lend.

The problem of student debt can never be solved until the state returns to its obligation to fund higher education. However, this requires a new conception of good citizenship and fighting racism in conjunction with the reestablishment of the value of the public, including public institutions, public capital, public entities, and public life.

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