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## GENDER DIFFERENCES IN ACCOUNTS OF BANKRUPTCY

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### I. INTRODUCTION

That money is viewed through a gendered lens is a fairly common observation. Even after women's legal disabilities for owning property were repealed, social arrangements tended to assign major responsibility for income and wealth to men. Because of men's greater labor force participation rates, access to capital, and inheritance patterns, acquiring money has traditionally been easier for men than for women. Moreover, the expectation persists that men will be workers and earners, and as a result, men are more likely than women to view money as an indicator of competitive success or failure.<sup>1</sup>

Beyond the mere acquisition of money, however, attitudes about and feelings toward money may also be gendered. Money has long been an issue about which men and women disagree. Quarrels over money have traditionally been one of the major triggers for divorce, and arguments over spending and saving are stereotypically causes for marital friction. Some of this friction is no doubt idiosyncratic or the result of differing views of money within the spouses' two families of orientation. There is, however, some evidence that attitudes and emotions associated with money are shaped through the differential socialization of men and women.

Traditional gender roles were shaped to a considerable degree by an implicit division of labor concerning the ownership of the assets, the earning of income, spending, and consumption. In the functional model of western society developed by Talcott Parsons, men were the wage-earners and women's "sphere" was the home and child-rearing.<sup>2</sup> Women were, however, still

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\* Executive Vice Chancellor for Academic Affairs, The University of Texas System. This paper represents my personal scholarly views and not the views or opinions of any others. I am indebted to Professor Elizabeth Warren and to Professor Jay Lawrence Westbrook for their long-term affiliation with me.

1. Vivien K.G. Lim & Thompson S.H. Teo, *Sex, Money and Financial Hardship: An Empirical Study of Attitudes Towards Money Among Undergraduates in Singapore*, 18 J. ECON. PSYCHOL. 370, 385 (1997); Richard Lynn, *Sex Differences in Competitiveness and the Valuation of Money in Twenty Countries*, 133 J. SOC. PSYCHOL. 507 (1993).

2. TALCOTT PARSONS, *THE SOCIAL SYSTEM* 221–25, 237 (1951).

assigned an economic role as consumer spenders.<sup>3</sup> The prestige of a family was displayed in its consumption, and indeed the splendor with which the wife was dressed was itself a sign that the husband was successful. Conspicuous consumption provided a means for translating money into other social goods, such as prestige.

A gender difference in money may well be deeper than just the functional division of labor, however. We know, for example, that men's and women's narratives on other topics, such as divorce, diverge sharply.<sup>4</sup> There is also evidence that money means different things to men and women. Some evidence compiled from twenty countries has indicated that men differ from women in their view of money as an indicator of competitiveness.<sup>5</sup> Men were also more likely to score highly on a scale that measured how much saving money was a value.<sup>6</sup> By contrast, even successful women may be characterized in terms of what they own in other words, how they spend their money rather than in terms of how much they earn.<sup>7</sup>

## II. GENDER AND CREDIT

As skimpy as these observations about income are, there is even less information generally available in terms of gendered affective differences toward wealth, credit, debt and financial distress. Although Congress passed a statute in 1969 to provide equal credit to women and men,<sup>8</sup> relatively little study is available to confirm that women do indeed have equal access to credit. Married men, for example, may have higher credit report scores than their wives, even though the wives allegedly have equal access to credit. Moreover, it seems plausible that whatever gender differences there are concerning money generally, there may be similar differences in reactions toward the close substitutes for money, such as credit.

Credit is of particular interest because of the rapid growth of the credit industry during the past ten years. Equal access to credit cards is hardly proof of true equality because the terms and rates offered to differentially situated customers differ dramatically, in ways that are not visible to the casual observer. The zero-percent teaser interest rates are actually subsidized by the

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3. See THORSTEIN VEBLÉN, *THE THEORY OF THE LEISURE CLASS* 358 (Augustus M. Kelley Publishers 1991) (1899).

4. Susan Walzer & Thomas P. Oles, *Managing Conflict After Marriages End: A Qualitative Study of Narratives of Ex-Spouses*, 84 *FAM. SOC'Y* 192, 194-99 (2003).

5. Lynn, *supra* note 1, at 507-11.

6. *Id.* at 509.

7. See Lisa Adkins, *Cultural Feminization: "Money, Sex and Power" for Women*, 26 *SIGNS* 669, 677 (2001).

8. Equal Credit Opportunity Act § 2, 15 U.S.C. § 1691(a) (2000).

double-digit rates charged by the same issuers to their subprime card holders.<sup>9</sup> Whether men and women have access to equally attractive credit card offers can be answered only by proprietary data that are rarely available to the social science researcher. It is nevertheless true that both women and men have access to credit, and therefore both have access to debt, although the levels and interest rates might differ. What we do not know, but seems reasonable to investigate, is whether men and women differ in the ways they discuss financial distress and debt.

Perhaps the most public acknowledgement of financial distress is declaring bankruptcy. For many years, bankruptcy was viewed as a behavior by men.<sup>10</sup> In recent years, women have equaled, and even exceeded, men as filers for bankruptcy, and if the presence of married women who file bankruptcy with their husbands is considered, then women have become the majority group in bankruptcy.<sup>11</sup> Indeed, much of the recent growth in bankruptcy filings can be attributed to the increased propensity of women to file bankruptcy.<sup>12</sup> If there are gendered emotional differences concerning credit and financial distress, these differences should be detectable in bankruptcy, where the people in the greatest distress find themselves.

This paper is based upon a content analysis of conversations held by bankrupt debtors with interviewers conducting the Consumer Bankruptcy Study of 2001. The interview documents both summarize and offer verbatim commentary from the interviewees, and also indicate the gender of the interviewee.

### III. COLLECTING DATA FROM BANKRUPT DEBTORS

The respondents are drawn from a large sample of people from five large metropolitan areas who filed for consumer bankruptcy during the first six months of 2001. This preliminary paper is limited to the debtors from the greater Los Angeles area who participated in the study. At the time of this study, California led the nation in bankruptcies and the Central District of California, which includes Los Angeles, was the most active federal judicial district in terms of the number of bankruptcies filed.<sup>13</sup>

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9. ROBERT D. MANNING, CREDIT CARD NATION: THE CONSEQUENCES OF AMERICA'S ADDICTION TO CREDIT 256 (2000).

10. TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, THE FRAGILE MIDDLE CLASS: AMERICANS IN DEBT 36 (2000).

11. Teresa Sullivan & Elizabeth Warren, *The Changing Demographics of Bankruptcy*, NORTON BANKR. L. ADVISOR, Oct. 1999, at 1.

12. SULLIVAN, *supra* note 10 at 36-37.

13. News Release, Administrative Office of the U.S. Courts, Bankruptcy Filings Hit Fiscal Year Historic High in 2001 (Dec. 4, 2001) tbl.F-2, at [http://www.uscourts.gov/Press\\_Releases/fy01bk.pdf](http://www.uscourts.gov/Press_Releases/fy01bk.pdf).

Bankruptcy is a legal action that, under certain circumstances, frees debtors from their obligations to their creditors.<sup>14</sup> The Constitution of the United States reserves the right to enact bankruptcy laws to Congress, and bankruptcy actions occur under the jurisdiction of the federal courts.<sup>15</sup> There are several types of bankruptcy that a consumer may file. Chapter 7 requires the liquidation of all assets that are not deemed exempt in state law, with the proceeds going to the creditors.<sup>16</sup> California state law is fairly generous in terms of what property may be exempted.<sup>17</sup> Chapter 13 allows a debtor to keep all of her property in exchange for monthly payments of her disposable income to a court-appointed trustee.<sup>18</sup> A Chapter 13 payment plan ranges from 36 to 60 months in length, and the payments are divided among the creditors after a small transaction fee is deducted for the trustee.<sup>19</sup>

Bankruptcy statutes require all debtors who file for bankruptcy to convene for a meeting with their creditors called the Section 341 meeting after the section in the Bankruptcy Code.<sup>20</sup> We approached the debtors to participate in this study while they were at the courthouse for their required Section 341 meeting with their creditors. The occurrence of the hearing meant that their bankruptcy was proceeding, rather than being merely a pro forma tactic, and so the study design eliminated people who had filed merely for a short-term tactical advantage (such as postponing an eviction). The potential respondents were asked, in the presence of their lawyers, to complete a questionnaire.

After completing the questionnaire, the respondents were offered an opportunity to receive a small cash incentive for participating in follow-up telephone interviews. The fraction of debtors who agreed to follow-up calls was quite high. The data for this paper come from the open-ended responses to the subsequent telephone interviews.

The interviewers were instructed to record as much of the conversation as possible, using computer-assisted telephone interviewing techniques. Respondents were permitted to talk for as long as they wished, and some interviews eventually ran as long as an hour, although others were brief. The open-ended questions were directed toward the reasons for the bankruptcy and the general reactions that the debtors had to the bankruptcy process and its aftermath.

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14. BLACK'S LAW DICTIONARY 156 (8th ed. 2004).

15. U.S. CONST. art. I, § 8, cl. 4; 28 U.S.C. § 151 (2000).

16. BLACK'S LAW DICTIONARY 247 (8th ed. 2004).

17. Leif M. Clark, *The Responsible Borrower Protection Bankruptcy Act: A Not-So-Responsible Effort at Protecting Borrowers*, 28 U. MEM. L. REV. 741, 768 n.110 (1998).

18. BLACK'S LAW DICTIONARY 248 (8th ed. 2004).

19. INTERNAL REVENUE SERVICE, BANKRUPTCY PROCESSING OF CHAPTER 13 CASES, at <http://www.irs.gov/irm/part25/ch13s12.html> (Sept. 1, 2004); 11 U.S.C. § 326 (2000).

20. 11 U.S.C. § 341 (2000).

The interviewers, who were all women, recorded the gender and marital status of the people whom they interviewed. Some of the women are filing bankruptcy alone, and others are wives in married couples that are filing bankruptcy. Similarly, the male respondents may be filing alone or as part of a couple.

It is a possible bias in this study that the interviewers were women. Male interviewers might have been able to elicit more detailed information from male respondents, although survey interviewers nationally are overwhelmingly female, and so the results reported here might not differ from other surveys conducted with the usual interviewers.

In the data files, the respondents are indicated only by a unique identification number.

#### IV. FINDINGS

Compared with the men, women tended to discourse much longer concerning their bankruptcies and were far more likely to go into detail concerning the reasons for their bankruptcy. Women's responses to the open-ended questions were on average four times longer than those of the men. The fact that women were likely to discourse at greater length is itself interesting, but the analysis below focuses on the content of the narratives given by the male and female respondents. Four basic themes are identified for further analysis: neutrality versus emotion, anger, regret, and embarrassment and shame.

##### A. *Neutrality versus emotion*

Men were far more likely to describe their bankruptcy and its causes in relatively neutral terms, often citing fairly abstract causes for their bankruptcy such as the recession in 2001, the loss of high-tech jobs, or business conditions. Even when they acknowledged fault for the bankruptcies, male respondents were much less likely to add emotionally charged language or to indicate that the experience was traumatic.

This comment was typical of the men:

*“Dot-coms had gone down the tubes . . . [the] power crunch caused problems.”* (a single male)

This respondent identified two common issues that were in the news and widely believed to be affecting the California economy at the macro-level. In 2001, the high-tech bubble, characterized by dot-coms, was beginning to burst, and the high cost of electrical power had become an important issue for businesses as well as households. Just how these macro-level conditions were

affecting this man's bankruptcy was never made clear, but their abstraction and distance from him implied that he had little control and therefore little responsibility for the circumstances of his bankruptcy.

In the following case, the connection between the economy and the personal situation of the debtor was more clear:

*"My reason for filing bankruptcy is because I experienced a significant drop in income when I lost my job with (company) . . . I was therefore juggling my credit card payments with my regular living expenses. I just could not sustain it any longer at the end of January 2001 and hired an attorney to file for bankruptcy in February 2001."* (a single male)

This debtor distances himself from both the layoff and the subsequent bankruptcy. The phrase "I experienced . . ." suggests that he was not the actor and had no agency in the chain of events that followed. "I was therefore juggling . . ." suggests that no other course of action was open to him. Although it is possible that this male debtor did indeed pursue other actions, such as reducing expenditures, the chain of events he described here ends with the debtor taking the action of hiring an attorney.

In other cases, the more abstract cause the men identified seemed to lie with the law itself:

*"If the bankruptcy laws are not visible to the consumer, they do not realize when they have reached the point that they have fallen too far behind."*

In this comment, the male respondent distanced himself from the bankruptcy by the phrase "they do not realize." By implication, it is the fault of the legal system that the laws are not visible and that individual debtors do not realize when they fall too far behind.

Above all, these men provide descriptions that are neutral in affect. By contrast, women respondents used much more emotional language and described their feelings about the bankruptcy. The most straightforward was the following:

*"There should be a kind of support group for bankruptcy, somewhere where you can discuss your feelings. There is a lot of emotional stress associated with filing. There should be someplace you can deal with them . . . I didn't even go into a relationship because of my debt; I was so ashamed. Also, I didn't feel it was right to bring my debt into someone else's life . . . I didn't feel*

*good about filing bankruptcy. It felt like I was ripping a lot of people off. . . . I was humiliated by the debt and the bankruptcy.”* (a single woman)

This woman expresses a great deal of awareness of the emotional aspects of bankruptcy. She believes that her bankruptcy was a source of great emotional stress. She speaks specifically of shame and an unwillingness to form a new relationship because of the shame. She suggests that debtors need a support group so that they can seek help. One woman put it more simply:

*“Going through this FEELS BAD.”* (a single woman)

Some women were quite explicit that the feelings of financial distress were overwhelming and were affecting their health and well-being. As one woman said,

*“I filed bankruptcy for my health. I was getting sick because of it.”* (a single woman)

It is not clear from this comment whether the woman was experiencing physical symptoms or having mental health issues, but in any event she described her own health as a reason for filing bankruptcy. She implies that her debts were making her sick.

In general, women seemed much more willing to acknowledge the emotional aspects of bankruptcy and to account for them.

#### *B. Anger*

Not surprisingly, perhaps, the debtors expressed anger directed at a variety of sources for what had happened to them. Both men and women expressed this emotion. Credit card companies were most likely to be blamed. One woman said simply:

*“The credit card company made it so easy.”* (a single woman)

Others went into more detail:

*“They (high school students) need to know what a rip-off a credit card is. They charge the merchants 3% of the sale and the buyer up to 24% interest; add to that any fees and late charges and whatever. It’s unreal!. . . Here in the USA if you don’t have a credit card, you’re sunk. You can’t even stay in a motel without one, or rent a car, whatever. It’s no wonder so many people are in trouble with credit. Credit card companies are really crooks. Not too much*



*different than the mafia, only, instead of breaking your leg, they ruin your whole life and your future.”* (a single woman)

This woman went on to say that high schools should require a course in financial literacy. She compares the credit card companies with criminals, except that the companies operate under the cover of law.

Lawyers too came in for some anger:

*“I think the lawyer should take more time. They should explain things more. I had a terrible lawyer, I had to call him every day to make sure he was taking care of the filing, also, he didn’t even show up at the hearing; he sent someone else, a legal assistant.”* (a single woman)

This woman believes that her attorney was not aggressive enough in taking care of her filing, that he did not explain enough to her, and that he did not even show up for her required hearing.

Men also expressed some anger, often related to the sequellae of the bankruptcy. One man who had worked in a car dealership said:

*“I know for a fact that car dealers, for example, are trying to punish people who have had to file. That needs to be stopped. I worked part-time for a car dealership, and I know those letters are bogus.”* (a single male)

He relied on his own experience to say that car dealers send “bogus” letters and he interprets their actions as seeking to punish bankrupt debtors.

### C. Regret

Women debtors were much more likely than men to express regret over the bankruptcy. Several men reported that they would enter bankruptcy again in similar circumstances, and one referred to his own previous bankruptcy. By contrast, the women vowed to avoid bankruptcy in the future, often describing in detail the new financial behaviors they had adopted. Many of them traced their resolve explicitly to the bad feelings the bankruptcy engendered.

*“I’ll never do it again; I was so embarrassed. I never want to get in that situation again. I throw away all credit offers sent to me. I have a hard enough time making it without extra debt.”*

This woman says that she was so embarrassed she will never file bankruptcy again. One behavior she has changed is throwing away all credit offers. More generally, another woman says:

*“I don’t see myself getting into that situation again. I’ve learned a big lesson from this. For one thing I’m learning how to budget.”* (a single woman)

*D. Embarrassment and Shame*

Probably the emotion most frequently referenced was embarrassment, with all its synonyms: humiliated, stigmatized, brought down. Women debtors were far more likely than men to mention that they tried to keep their bankruptcy secret:

*“You know I was embarrassed; I never told anyone about it, only my son and my boss.”* (a single woman)

This woman indicates that her embarrassment was so deep that she could share the information with only two people. By the way, her boss might have been in a need-to-know position depending on her bankruptcy; in some cases the employers are notified of the bankruptcy, especially in Chapter 13 cases.

Some women felt it necessary to provide an apology:

*“I’m sorry, I felt like it was so easy to charge things, I didn’t realize how fast the charges added up. Wish I hadn’t done it. I will never do it again.”* (a single woman)

This woman, opening with an apology, suggests that charging items was easy but blames herself for not realizing the speed with which the debt accumulated. She says she will never do it again, evidently referring to excess credit charges but possibly referring to the possibility of a future bankruptcy.

*“I didn’t feel good about filing bankruptcy. It felt like I was ripping a lot of people off. . . . I was humiliated by the debt and the bankruptcy.”* (a single woman)

This woman says that she felt she was acting dishonestly because she would not be repaying her creditors, and she refers to her humiliation.

By contrast, even men who take the blame for their behavior do not seem to add a layer of contrition to their account:

*“I lived beyond my means. I gamble and was addicted to drugs and alcohol. I tried to support my ex-girlfriend. I had trouble in managing my money. Student loan. I had to pay the IRS big money.”* (a single male)

This man identifies a number of behaviors that might be thought within his control: overspending, gambling, mismanagement of money, not paying his taxes and perhaps his use of drugs and alcohol. Even so, he does not refer to shame, embarrassment, guilt or similar emotions.

*“I have had a rude awakening. My wife took care of the bill paying and after we split up I realized that I didn’t know how to manage my money.”* (a single male)

This man acknowledges that his behavior led to the bankruptcy, but aside from a “rude awakening” he acknowledges no emotions of shame or embarrassment. In fact, he might be seen as blaming his ex-wife because he found out only after the divorce that he did not know how to manage his money.

## V. CONCLUSION

Over and over, the women in our sample described their debt and bankruptcy in emotional terms, suggesting that debt (and by extension, money) takes on larger ramifications as a surrogate for power/helplessness, virtue/fault, competence/incompetence and as an indicator of self-worth. Men, by contrast, were much less likely to describe the experience in charged or emotional terms. Some men did mention seeking secrecy for their bankruptcy, which suggests that they felt some degree of stigma attached to filing, but they also distanced themselves from the event by describing the negative emotional effect the bankruptcy would have on someone else. Thus, they might not want to let a parent know about a bankruptcy because that knowledge would make the parent feel bad.

This difference in emotional connotations for the bankruptcy has a potential impact on the current bankruptcy debates. Congress has considered for several sessions a bill that would limit access by most people to bankruptcy.<sup>21</sup> Members of Congress, banking and credit officials, and editorial writers have drummed on the theme that there is no longer a stigma attached to bankruptcy and that people are filing bankruptcy over and over again for fairly trivial reasons.<sup>22</sup> A discussion with the men in our sample might seem to confirm such a view. They distance themselves from the event, blame abstract

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21. Michael Schroeder, *Senate Panel Approves Bill to Overhaul Bankruptcy*, WALL ST. J., Feb. 18, 2005, at A2.

22. Marian Uhlman & Jeff Gelles, *Some Go Bankrupt for Health Reasons; Medical Problems Had a Role in Half of All Personal Filings. Most Had Insurance When They Got Sick, a Study Says*, PHILA. INQUIRER, Feb. 2, 2005, at D1; *Bankruptcy Revision: Hearing on the Bankruptcy Reform Act Before the Comm. on Senate Judiciary*, 109th Cong. (2005) (statement of Todd J. Zywicki, Visiting Professor, Georgetown University Law Center) available at [http://judiciary.senate.gov/testimony.cfm?id=1381&wit\\_id=3997](http://judiciary.senate.gov/testimony.cfm?id=1381&wit_id=3997) (last visited April 18, 2005).

causes over which they had little control and describe the bankruptcy in fairly neutral, even strategic, terms.

A discussion with our women respondents, however, would lead to a very different picture of the pain that debt and bankruptcy have caused in their lives. Women are far more likely to express regret, embarrassment, shame and a sense of humiliation. Women are less likely to distance themselves from the bankruptcy; instead, they report that the bankruptcy was an intense personal experience, and one that they do not wish to repeat. Moreover, with the increased representation of women in bankruptcy, we could argue that the average level of distress in bankruptcy may also be rising. The deep sense of shame, regret, and anger is muted as long as the voices of women in bankruptcy are muted.

