

Stop blaming debt on debtors

By [Jonathan R. Miller](#)

September 9, 2015

The typical American lawsuit isn't filed against McDonald's by someone scalded by coffee. It is filed by a bank, lender, or debt collector against an individual consumer, seeking to recover an alleged unpaid credit card account, student loan, or medical debt.

In Chicago's Cook County Circuit Court, for instance, [more than 119,000 debt-collection lawsuits were pending](#) in June 2008. In 2005, [120,000 cases were filed in small claims court](#) in Massachusetts; of these, 60 percent were debt-collection lawsuits. In Maryland, [37,000 debt-collection lawsuits were filed](#) in 2011 and 22,000 in 2012. And in New York State, [more than 195,000 debt collection lawsuits were filed in 2011](#) [pdf].

Why is this happening?

I overheard one possible explanation a couple of years ago while at the Bronx Civil Court, two blocks from Yankee Stadium. I was in Room 504, where almost all consumer credit cases are heard. As usual, it was busy, and only a fraction of those sued were represented by lawyers.

The banks and debt collectors that initiated the lawsuits, on the other hand, all had lawyers. One of the debt-collection attorneys had brought her 8-year-old son to work with her. He asked his mother, "Why are you taking away all these people's money?" She leaned down and explained that sometimes people who borrow money don't pay it back, even though they promised they would. It's kind of like stealing, she said.

Translation: Debt-collection lawsuits happen because people sin.

But that ad hoc theology lesson didn't fit the reality I experienced as a debt-defense attorney in the Bronx. The individual consumers I represented were people who held low-paying jobs or had lost their jobs, who were using credit cards to support their families because they had no other options. Moreover, many of my clients had more

than repaid the amount they had borrowed, yet found themselves still in debt because of outrageous interest rates, fees, and penalties.

Even assuming that the average debt-collection victim occasionally purchases a “luxury item,” it doesn’t follow that their plight is purely their own moral fault. To the extent that they made any unnecessary purchases, they were simply following the teachings of the ubiquitous gospel of consumerism. Let’s assign moral responsibility proportionally to the *preachers* of that false gospel as well as the hearers.

One must ask why America, which finds ways to extend credit to so many, is able to open opportunities to truly flourish only to the few. The answer is that, in 21st-century America, the function of debt is to paper over that dearth of opportunity, and over the lack of an effective social safety net. Debt privatizes those problems, turning them into business opportunities for banks and loan companies. Debt is a way of arranging social relations that enables the rich to get richer by redistributing to them the poor’s meager assets. And it justifies itself by blaming the poor’s suffering on their own ostensible moral failings.

If debt is sin, then being sued in civil court is judgment day. In my opinion, one of the main reasons debt collectors are turning more often to the civil legal system is that the courthouse itself is a potent moral and spiritual weapon. The feeling of guilt and the aura of authority connected with the legal system are far more persuasive than letters, phone calls, or even the prospect of wage garnishment.

Christians need to face the fact that these feelings of guilt and that aura of authority owe something to our theological symbols. In the vocabulary of faith, “debt” is often a synonym for sin. One thing this language does is to make it that much easier for debt collectors to manipulate feelings of guilt.

The church would do better to speak of debt as a this-worldly tool of oppression. After all, for much of its history, the church considered usury a sin. The Torah provides for a jubilee year that includes forgiveness of outstanding debts. And Nehemiah, advocating for Jews returning from exile, [demand](#)ed that the wealthy already established in the land stop charging interest—and return interest already collected.

There are ways that creative churches might follow Nehemiah’s lead. Churches can partner with attorneys committed to social justice, helping them deliver legal services that could mean the difference between losing and winning debt-collection

lawsuits. Just as important, churches can speak the truth about debt, countering society's scapegoating of the poor and exposing the unjust economic arrangements it camouflages. That would be good news to the oppressed, the proclamation of liberty to the captives.