Tackling consumer indebtedness and unscrupulous lending in South Africa

South Africans have been borrowing extensively to meet their own and their dependents' needs and expectations. Among salaried employees, many have no cash reserves and no investments; their houses, cars, and other assets are bought entirely with borrowed cash, often to the detriment of precarious monthly budgets. ***Deborah James*** *describes a "creditor advantage" legal culture in the country, where lenders have been able to plunder the accounts of salary earners with impunity, through "deductions". Her research details the complex social reasons for it and informs efforts to tackle unscrupulous lending.*

Impact Case -- Research Excellence Framework (REF)

What was the problem?

Since the 1990s, South Africans have been borrowing extensively to meet their own and their dependents' needs and expectations. This is true of salaried employees – members of the "new middle class" – as well as of welfare recipients. Among the former, many have no cash reserves and no investments; their houses, cars, and other assets are bought entirely with borrowed cash, often to the detriment of precarious monthly budgets. The result has been unsustainable levels of debt, much of it with unsecured lenders and loan sharks.

A core objective of the South African government's national development plan is to reduce inequality and eradicate poverty by creating better employment opportunities and ensuring financial stability. These levels of debt undermine economic security and so are a major obstacle to these goals.

What did we do?

My research has explored in-depth this sharp rise in consumer indebtedness. My 2015 monograph, *Money from Nothing*, and subsequent publications exposed the ways in which lenders and loan sharks have been able to plunder the accounts of salary earners with impunity, through "deductions".

My research challenges common assumptions about indebtedness, demonstrating how the structures propping up "credit apartheid" in South Africa disadvantage its victims. These structures enable creditors to secure repayment with such ease that they have virtually no risk of default, through mechanisms such as the country's legally enshrined "creditor advantage". Workers' pay is automatically transferred to their bank accounts at month-end, and then effortlessly removed from those accounts by their creditors. This is often achieved by abusing the practice of garnishee or "emoluments attachment orders", which legally oblige an employer to enable a creditor to deduct a portion of the debtor's monthly pay before the employee receives it. I challenge the assumption that lenders have a right to repayment, no matter how reckless their loans.

My research also details how the problem of debt is exacerbated by high levels of unemployment. The few people with work are expected to support unemployed relatives and other dependents. Many – from mine employees to nurses, teachers, and civil servants – borrow to meet that expectation. For them, strategic withdrawal from such obligations is the only way to achieve a more individually viable middle-class existence, but this requires undercutting the value entailed in social expectation and obligation. Breaking such social norms can create shame and stigma that many find hugely problematic. Reducing debt reliance, therefore, cannot be achieved simply through the provision of financial advice or "literacy" but requires changing perceptions of acceptable social norms. James's work emphasises how policymakers must understand the needs and aspirations that lead people into debt. Viewing borrowing as "irrational" (as financial advisers and economists often do) misses important aspects of its social underpinnings.

Finally, I counter the notion that "banking the unbanked" helps people move from "traditional" ways of conducting their financial affairs, such as investing in rotating credit savings clubs, to more "modern" ones like saving money in banks. In reality, many people take a more "portfolio" approach, using saving and credit from many sources. My research further challenges the idea of the indebted as passive victims of nefarious loan sharks. For those unable to borrow from the banks, loan sharks represent the best (and often only) borrowing option.

What happened?

Policymakers in South Africa have tended to devolve responsibility for reducing debt to borrowers themselves, suggesting that financial advice and "self-discipline" will solve the problem. My research shows that this approach can work only in combination with other measures, and by better understanding what has led people into debt. Since publication, the research has been used by financial experts, debt activists, lawyers, financial wellness companies, the employer community, and human/consumer rights advocates, informing debates about how best to address the country's debt problems.

In 2015, South African financial services company Alexander Forbes asked me to contribute to their online *Benefits Barometer* (*BB*) tool, book and series of presentations across South Africa for their clients on improving financial wellbeing. Through these events, I presented my findings on indebtedness to audiences that comprised more than 1,000 employers, CEOs, HR professionals, policymakers, and financial consultants. Participants' feedback suggested that my presentations improved – and changed – their understanding of the issues experienced by many of their employees.

My research on the easily abused "creditor advantage" legal culture has informed discussion among human rights lawyers interested in curbing these abuses. In 2016, the Constitutional Court heard a landmark case, which sought confirmation of a 2015 High Court ruling that several practices relating to emoluments attachment orders were unconstitutional. University of Cape Town economist Nicoli Nattrass presented evidence in the case, acknowledging my work, about lenders' illegal use of deductions and their culture of general impunity. The Constitutional Court upheld the High Court ruling and emphasised the need for any automated debt repayment deductions to be "appropriate". This should mean that people are not left with less than they need each month to cover basic reasonable costs, which has potentially far-reaching implications for the financial wellbeing of employees.

The research has also been used by human rights organisation Black Sash to analyse the ways in which South Africa's "advantage to creditor" environment allows lenders to exploit poor communities of welfare beneficiaries. One of the primary offenders was the controversial Net1 company, which in 2012 was awarded a government contract to deliver payments to 17 million welfare recipients. It used this banking access to leverage these welfare payments as collateral for the loan and insurance products it sold them. My co-author David Neves (University of the Western Cape) and I outlined this situation in a piece in *The Conversation* in March 2017, which exposed the myth that "financial inclusion" is necessarily beneficial.

In 2018, Black Sash worked with the South African government to withdraw the contract from Net1 and award it, instead, to the Post Office. James and I, with Dr Erin Torkelson (University of California, Berkley), collaborated with Black Sash to explore whether the lending bonanza continued after this switch in provider. The resulting report, which garnered significant media coverage, showed how even after the handover to the Post Office, many welfare recipients were unable or unwilling to discontinue their use of Net1's EasyPay cards and the borrowing they enabled. I have continued to work with Black Sash as it pursues reforms for the better regulation (and reduced cost) of credit.

I have shared my work widely through high-profile national and international media (see also here). My research insights reached a new audience when I provided expert advice about loan shark practices to the makers of the feature film *For Love and Broken Bones*, which aired to critical acclaim in South Africa and won Best Film at the 2015 Portland Film Festival. The topics I explore were already a matter of concern and my research has contributed to a more nuanced media and public awareness of the complexity and effects of indebtedness.

Deborah James was interviewed by Audrey Masango:

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Notes:

- *This blog post appeared originally as an LSE Research Excellence Framework (REF) impact case study.*
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