

CURRENT SCHOLARSHIP

Commodifying Marginalization

Author: Abbye Atkinson

Once pillars of American social provision, public pension funds now rely significantly on private investment to meet their chronically underfunded promises to America's workers. Moreover, desperate for returns, pension funds are increasingly investing in marginalized debt, namely the array of high-interest-rate, subprime, risky debt—including small-dollar installment loans and other forms of subprime debt—that tends to concentrate in and among historically marginalized communities. Notwithstanding its often-catastrophic effects on communities, marginalized debt is a valuable investment because its characteristically high interest rates and myriad fees engender higher returns. In turn, higher returns ostensibly mean greater retirement security for ordinary workers who are themselves economically vulnerable in the current atmosphere of public welfare retrenchment. They must increasingly fend for themselves if they hope to retire at a decent age and with dignity, if at all.

This Article surfaces this debt-centered connection between two economically vulnerable groups: workers on the one hand and marginalized borrowers on the other. It argues that the current public-private welfare regime has thoroughly shifted retirement security into the hands of private financial markets, whose fiduciary duties and profit-sensitive incentives eschew broader moral considerations of the source of profits or the subsequent consequences of wealth extraction. Consequently, the rise of marginalized debt as a source of retiree wealth maximization shows how the tenuous socio-economic condition of one community is now openly a source of wealth accumulation for another vulnerable community. Moreover, this incursion of private entities into the arena of public welfare is pernicious because it

commodifies and reinforces the subordinate socioeconomic conditions that make the persistence of marginalized debt predictable.

Atkinson, Abbye, Commodifying Marginalization (April 12, 2021). Duke Law Journal, Vol. 71, 2022, Available at SSRN: <https://ssrn.com/abstract=3824467>