

== Preface ==

You have among you many a purchased slave,
Which like your asses and your dogs and mules
You use in abject and in slavish parts,
Because you bought them. Shall I say to you,
“Let them be free! Marry them to your heirs!
Why sweat they under burdens? Let their beds
Be made as soft as yours, and let their palates
Be seasoned with such viands”? You will answer,
“The slaves are ours.” So do I answer you:
The pound of flesh which I demand of him
Is dearly bought, 'tis mine, and I will have it.

—Shylock, *The Merchant of Venice* by William Shakespeare
(1598), act IV, scene 1, lines 90–100

After I completed graduate school and began working as a professor, my father regularly teased me, “When are you going to write that great American novel?” I explained to my dad that I was a social scientist, I did not write fiction, and besides, my research focused on stratification, inequality, race and ethnicity, and the criminal justice system—far from a story about American life. I hadn’t realized until I began writing this book how “great” and how “American” is the practice of criminal monetary sanctions in this country.

This book is about a contemporary form of social control that is imposed by court systems in the form of monetary sanctions and disproportionately punishes the poor. Also referred to as legal financial obligations (LFOs), these penalties are levied in addition to jail or prison time and regularly include fines, court user fees, restitution, and collection charges. My central thesis is that the imposition of fines and fees creates a two-tiered system of punishment: one for those with financial means and one for those who are poor. Because they cannot be held fully accountable for their offending when they are unable to pay, the poor experience a permanent punishment. Nevertheless, non-elected court bureaucrats enforce this system and assess debtors’ remorse for their crimes based on their own ideas about personal responsibility,

meritocracy, and accountability. This book tells the story of how U.S. court officials, behind the shield of justice, are empowered to apply the laws with a paternalistic discretion that marginalizes the poor.

This is not the story I wanted to write. In many ways, my personal story is about generational success. My grandmother was an immigrant to the United States, and my grandfather was a descendant of African people forced into slavery. My father was born in 1930, in the middle of the Great Depression. He obtained a GED so that he could enlist in the U.S. Navy at seventeen years of age. He was hired by a company as its first African American employee and worked there for forty years. He married my white mother just two years after the Supreme Court decision in *Loving v. Virginia* legalized interracial marriage in the United States in 1967. My parents worked hard to ensure that my twin brother and I would have the best education and attend college. In many ways, my family has lived the proverbial American Dream. Yet we represent the few, not the many, in this country.

At a moment when the United States has experienced considerable racial progress—the reelection of President Barack Obama, the appointment of an African American woman as U.S. attorney general, and the development of a nationwide movement for a living wage—I would love to write a book about this country's progress. Yet, while things are going well for me and for my family, I am continually reminded that all is not well for many other people living in the United States. Thus, I teach my undergraduate students about the disproportionate confinement of people of color in the juvenile and adult justice systems. I assign my students readings about the racial achievement gap in education, from preschools to graduate schools. We talk in my social problems courses about health disparities and the rising rates of HIV/AIDS in African American communities, as well as about income inequality, unemployment and wealth disparities, and occupational and residential segregation.

I wanted to be a sociologist who writes success stories—stories about social mobility and overcoming the legacy of this country's historical hurdles. I wanted to write an American story about opportunity, perseverance, and progress. For my kids, I want to trace a blueprint of the legacy and triumph of our community. Over the past eight years, however, my interviews with people convicted of felonies and people who work within the criminal justice system have convinced me that another story needs to be told.

I have engaged with people in my own community who face lifelong debt as a result of criminal convictions related to their mental health struggles and drug addictions. I have observed criminal sentencing and violation hearings and analyzed court-sentencing data. I have reviewed

state criminal codes and case law. And the story of my research—the story that must be told—is that our twenty-first-century criminal justice system stains people’s lives forever. The permanent stain results not just from a criminal conviction and the related societal stigma but also from the financial debt, constant surveillance, and related punishment incurred by monetary sanctions.

Many people make mistakes, both in the United States and around the world. Sometimes they do things that are horribly wrong and exact enormous costs. Although the criminal justice system ensures that most people serve time for their wrongdoings to pay their debt to society, my research shows that the imposition by the criminal justice system of fines and fees ensures that the poor alone can never atone.

Early in the course of my research for this book, I was pulled over by a police officer for speeding. The officer spent more time explaining to me how I could file for what is called a “deferred finding” than he did reprimanding me for speeding. I had the option to go online and pay a fee in addition to the traffic fine, and if I did not receive any further moving violations in the next year, the ticket would not go on my record and would not affect my insurance rate. Because I had the means, I paid for my deferred finding, was careful not to receive any more speeding tickets, and, with the violation kept off my record, managed to avoid a hike in my insurance rate. I was able to avoid entanglement in the justice system. Had I not been able to pay the ticket, I could have eventually lost my driver’s license, received warrants, and even been arrested and incarcerated. People like me are able to take advantage of such “deferred” circumstances, but far more people are not. I am compelled to write this book because I have observed and learned that there is no “redemption,” or assumption of “youthful indiscretion,” or belief in “the land of opportunity” for poor people who come into contact with the U.S. justice system.

For his inability to make payments to the moneylender Shylock, Antonio in Shakespeare’s *Merchant of Venice* is brought before a court, which decrees that his punishment will be “a pound of flesh.” Early in my research for this book, a prosecutor used this phrase in describing monetary sanctions as a tool for getting his “pound of flesh” from a defendant; he said that he wanted to “screw” the defendant, whom he believed had caused grave harm to the victim. In the American criminal justice system, this prosecutor is not alone in using monetary sanctions as additional punishment for defendants viewed as deserving of extra sanctions beyond the basic sentence. “A pound of flesh” is a powerful metaphor for the study of legal financial obligations.

“A pound of flesh” also captures symbolically the actual indebtedness of many people who are convicted. Reminiscent of the days of

slavery, poor people convicted today face fiscal servitude to the court. For them, the average \$1,300 monetary sentence per felony conviction represents the difference between being housed or unstably housed, taking daily AIDS medication or going untreated, accessing or failing to access a public shower if homeless, and being free to move forward someday into a healthier relationship or remaining in an abusive one. Given that race and class are so highly correlated in U.S. society and that the criminal justice system has consistently managed people of color in this country in disproportionate and disparate ways, the system of monetary sanctions has become a key way in which racial and class inequalities in the United States are reproduced and reinforced. Even though much of the story told here is about class, my evidence points to the unique challenges of monetary sanctions not only for economically disadvantaged people but also for the racially marginalized; thus, this story is inescapably related to race as well.

My primary research objective was to understand the use of monetary sanctions in today's criminal justice system. Who receives fines and fees as punishment? How are offenders monitored for payment? What consequences of contact with the criminal justice system are related to monetary sanctions? And more theoretically, what role do monetary sanctions play in the administration of punishment in the contemporary United States? In what follows, I detail how monetary sanctions are levied and enforced and illustrate how impoverished debtors experience this punishment as "a pound of flesh." The poor and convicted constantly worry about LFOs, which are a painful punishment they can do nothing to address because of their marginalized position, economically or otherwise, in society.

While contemporary systems of social control may no longer be as physically brutal as systems of the past, in this book I reveal that the imposition of monetary sanctions is consistent with prior forms of American "justice." Like the colonization of the indigenous peoples, the enslavement of people from Africa, the Black Codes and Jim Crow laws that managed and isolated nonwhites, and convict leasing and forced labor camps for prisoners, the contemporary use of monetary sanctions is disproportionately imposed on the impoverished and socially isolated. These sanctions keep poor and racially marginalized people under constant surveillance and living in poverty and perpetual punishment. Thus, the contemporary criminal justice system remains essentially unchanged from earlier incarnations, which were understood to be necessary to control populations deemed in need of management and punishment. As a system that uniquely disadvantages people in poverty, the American criminal justice system generates and sustains

inequality and closes off successful societal integration for many people it touches.

I guess my dad was right: I do indeed have a great American story to write, but not a novel. Instead, I have written an empirically grounded analysis of a system of social control that manages, punishes, and marginalizes a subset of the U.S. population because of their poverty status. Although specific names of people and places have been changed, *A Pound of Flesh* is a true story about class, punishment, and retribution in the contemporary U.S. criminal justice system and about the lives of the poorest Americans who encounter it. And in this true story, court officials impose LFOs as adamantly as Shylock: "'Tis mine, and I will have it."