When Did Scrooge Become a Role Model? Why Criticism of America’s National Debt is Misplaced

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I. INTRODUCTION

Today, money is worshiped as if it is the Great Oz. It is presumed to have an unquestionable power and it is the answer to everything. Best sellers like Robert T. Kiyosaki and Sharon L. Lechter’s *Rich Dad, Poor Dad*, teach readers to become wealthy by spending as little as possible, accumulating savings, investing those savings, and then living off the investment earnings.¹ But Mr. Kiyosaki fails to ask: What would happen if everyone did that? The investor is glamorized throughout society. College students dream of working on Wall Street, where they will be well compensated and live lavish lifestyles for investing other people’s money.² Books, television shows, and radio shows on stock picking abound, and everyone thinks that if they could

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² See, e.g., WALLSTREET (20th Century Fox 1987).

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just pick the right stock they would be rich. But you hardly hear anyone ask: Where does this investment return come from? Every year people eagerly read the Forbes’ list of billionaires. But the writer does not ask: Exactly how did this person accumulate wealth, and what effect did this accumulation have on the people he interacted with?

Things were not always like this. In the past, savers like Kiyosaki may have been held in high esteem, but they could have just as easily been stigmatized as misers. Charles Dickens’ character, Scrooge, was not on the cover of Forbes magazine, he was undergoing an epiphany and learning the error of his ways. Letting your money work for you was not a brilliant strategy, it was the immoral act of usury. These ideas are missing from the current discourse on the economy.

The first part of this paper connects the past to the present. Through a series of stories, this paper explains why there is social value to stigmatizing cheapness, labeling avarice as a sin, and prohibiting usury. This paper then applies these ideas to a specific issue that has received a lot of attention—America’s national debt. Finally, this paper explains why criticism of the nation’s debt is misplaced.

3. See, e.g., Mad Money with Jim Cramer (CNBC television broadcast).
7. See id. There are numerous examples of usurer villains in Elizabethan era British plays. See generally Celeste Turner Wright, The Usurer’s Sin in Elizabethan Literature, 35 STUD. IN PHILOLOGY 178 (1938). This author cannot think of a modern movie with such a character. See generally id.
II. WHAT DO I DO WITH THIS MONEY?

There are five things a person can do with money. They can spend it, give it as a gift, save it, make an equity investment, or lend it. Each of these actions has an effect on the economy.

One preliminary question is: How do you know if something is beneficial or harmful to society? This paper answers that question by proposing that all else being equal, a society is better off when its citizens are productive. In other words, society is better off when a person is working, than if he is doing nothing all day.

Note, this is not a monetary based measure. Rather, it measures society's ability to use a person's potential. Ultimately the value of a society is not measured by how much money it has. Rather, a society is measured by the productivity of its people.

Ancient Egypt is remembered for its pyramids, not its money. The United States is not valued for its wealth. In fact, the country is in tremendous debt. Rather, it is valued for its art, its inventions, its infrastructure, its farming, its healthcare, its schools, and so on. These were all created by inducing its citizens into productive activity. So, throughout this paper, the measuring stick will be the productivity of a society's citizens.

A. Spend It

To simplify the world, let us imagine a closed world with only seven people: Dopey, Grumpy, Doc, Happy, Bashful, Sneezy, and Sleepy. In this world, there is only $100 of money, and it is all in Dopey's hands. So what should Dopey do with it? Dopey decides to give it to Grumpy in exchange...

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9. There are also more exotic investments, such as derivatives, forwards and short sales. BLACK'S LAW DICTIONARY 475 (8th ed. 2004). To avoid straying too far from the paper's topic, these options will not be discussed except to note that their payoffs are generally based on (derivative of) an underlying debt or equity investment. For curiosity's sake, I will also note that burning or destroying money is a crime in the United States. 18 U.S.C. § 333 (2006).


Wealth, as Henry George defined it in an analysis that time has tested, "consists of natural products that have been secured, moved, combined, separated, or in other ways modified by human exertion, so as to fit them for the gratification of human desires. It is, in other words, labor impressed upon matter in such a way as to store up... the power of human labor to minister to human desires." Wealth, then, is created when natural resources are modified by the expenditure of labor so as to fit them for human use.

Id. (quoting HENRY GEORGE, PROGRESS AND POVERTY 41–42 (Centenary ed. Robert Schalkenbach Found. 1979) (1879)). Note, this does not foreclose environmentalism. For example, you can imagine Bashful paying Doc to plant trees or clean pollution, so long as those activities "minister to human desires." Id.
for a good or service. Grumpy then gives it to Doc for a good or service. Doc then gives it to Happy for a good or service. It cycles in this manner all the way back to Dopey.

This simple model begs a number of questions. What good or service was provided in each of these transactions? The answer is whatever the buyer wanted. It is a free market and the citizens produce whatever society wants. Assuming a good was manufactured: Where did the seller get the materials with which to produce the good? We will add that nuance later, but for now assume the materials were abundant. For example, if the good was ice cream, pretend the manufacturer found the cow and fruit in nature.

The point is, they are all induced into productive activity. This society has 100% employment. Every citizen is busy doing something productive.

B. Gift It

Gifts are not pertinent to the subject matter of this paper, but they are addressed here for completeness. Let us go back to the world above and assume that Dopey gives the $100 to Grumpy. He does so not in exchange for goods or services, but rather as a gift. Everything else is the same as above. The $100 flows through everyone’s hands in exchange for goods and services, except during the Dopey to Grumpy exchange. Dopey does not receive a good or service in exchange for the $100 and Grumpy does not do any work.

Going back to the measuring stick, society’s productivity has gone down. Previously, Grumpy was doing a productive activity, but now he is not. That is why gifts are thought to be bad for society.11 It would be better if Grumpy had to do something—anything—for the money than if he receives it for doing nothing.

C. Save It

Now, let us say a new citizen enters the world—Scrooge. Scrooge is hard working but cheap. Scrooge asks Bashful for a job. Bashful happily hires him, and Scrooge diligently works to provide a good or service to Bashful. But Scrooge does not spend the money he receives. He saves it under his mattress.12 It is not that what Scrooge desires is not on the market.


12. The reader may note that today money is saved in banks, and that banks invest that money. One common defense of saving is that because banks invest your money, saving is
The other seven are willing to do whatever he asks, but he still refuses to spend money.13

What is going to happen if Scrooge keeps doing this? Eventually Scrooge will hold the society’s entire $100. What are the other seven individuals doing? Nothing; no one has any money with which to hire each other. The only person with money is Scrooge and he loves it too much to part ways with it.

This society is now completely unproductive. No one is working. Not even Scrooge, because the others do not have any money with which to hire him. The society was running perfectly, until Scrooge’s cheapness brought it to a grinding halt.14 This illustration explains why, for example, former President Bill Clinton says we will spend our way out of the recession.15 It is why Federal Reserve Chairman Ben Bernanke hints that during a recession,
he would do what is the equivalent of using a helicopter to throw bags of money onto the street.16 You cannot let misers like Scrooge bring the economy to a halt.17

Again, this simple model begs a number of questions. Do people not need to save? For example, what if they become disabled and cannot work? Should they not have saved for that possibility? This is why the insurance industry is so valuable. It allows citizens to prepare for such remote contingencies, without saving more than is necessary.18 For example, say you will need $100,000 in case of disability, but there is only a 1% chance of disability. Through an insurance scheme, you can attain that coverage for only about $1000—1% of $100,000. So, instead of having to save $100,000, you only have to save $1000.19

The point of this section is that saving is harmful to society.20 When you save money, you are taking a job from someone; you are robbing them


17. See id.


19. What about saving for retirement? Issues surrounding retirement are widely debated and beyond the scope of this paper. See Jeannine Aversa, Bernanke: Baby Boomers Will Strain U.S., WASHINGTONPOST.COM, Oct. 4, 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/10/04/AR2006100401596.html. However, I do want to note that some commentators think that an increase in the retirement age is the only solution. See, e.g., William Saleton, Curse of the Young Old, Why Should We Pay Them?, WASH. POST, Mar. 19, 2006, at B2. That is consistent with the measuring stick of this paper. Whether a retiree is living off of government programs, savings, or investment income, he is an unproductive member of society, and the manner by which he is being taken care of is one of form rather than substance. Finally, I will note that like attitudes towards miserliness and usury, attitudes towards retirement have also changed. In 1880, 80% of Americans ages sixty-five or older were gainfully employed. See DORA L. COSTA, THE EVOLUTION OF RETIREMENT 8 fig.2.1 (1998). In 1990, only about 20% of Americans ages sixty-five or older are gainfully employed. Id. This is especially surprising when you realize that people over sixty-five are much healthier today due to modern medicine. It may very well be that people retiring too early and saving too much for a decades-long retirement, but that is a topic for another paper.

of their potential for productivity. In exchange, you only receive money—something that has no innate value. This is why avarice was thought to be one of the seven deadly sins—it is the choosing of money—or more specifically the demon Mammon\textsuperscript{21}—over your fellow man.\textsuperscript{22}

D. \textit{Equity Investment}

Now let us add some sophistication to the model. Previously, there was no capital required to provide the good or service. For example, if Bashful made and sold ice cream, he was able to find all the ingredients abundant in nature. But that is not realistic. He will need to buy the ingredients. If Bashful wants to provide medical services, he cannot just wake up one day and practice medicine. He needs to buy an education. To provide a good or service, Bashful needs not just his labor, but also capital.

Let us go back to the example above. Say Scrooge has not yet accumulated the entire $100. He has only managed to save $75 and the other $25 is floating around the world. The $25 is in Grumpy’s hands, and he wants to buy ice cream from Bashful. The ingredients for the ice cream are no longer freely available. They now cost $10. So to make $25 of ice cream, Grumpy needs to buy $10 of ingredients. But he does not have $10. He needs someone to finance this operation. This is when Scrooge appears. He will give Bashful the $10 for a share of the profits, or alternatively a share of the losses. The arrangement is as follows: If Bashful makes the ice cream and sells it for $25, he will give Scrooge $15 and keep $10. If he can only sell it for $15—perhaps the quality is bad—then Scrooge will receive $11 and

\textit{See id. at 129.} This debate is still far from being resolved, and regularly finds a forum in tax policy. \textit{Id.} Of course some saving is necessary. You cannot spend every penny you earn a second after it comes into your possession. For example, if you want to buy a $500 computer, yet you only make $100 a week, then you will have to save to buy the computer. For a defense of saving as a "consumption reserve," see G.P. Watkins, \textit{Economics of Saving}, 23 Am. ECON. REV. 61, 61 (1933). While the author agrees that hoarding "is the negation of spending" he points out that the line between spending and saving is not always so clear. \textit{Id.} at 62.


But, as Dickens reminds us, the sufferings of the poor masses are also causally linked to Scrooge’s hoarding of material resources. We simply forget (or fail to see) because the connection is more indirect, and thus the responsibility more easily diffused and less likely to give rise to feelings of personal and moral accountability. . . . Moreover, this economic behavior is fundamentally similar to the significant subset of criminalized behavior discussed previously. \textit{Id.} at 2170.
Bashful will keep $4. If no one buys the ice cream—perhaps it is ruined—then neither side gets anything.

Returning to the original measuring stick, let us see if society is productive. Bashful is working to make ice cream. But Scrooge is not productive. If the venture is successful, then Scrooge will get money for nothing. He has gotten his money "to work for him." In fact that is not what is happening. Money cannot work. Bashful is doing all the work and Scrooge is taking some of the rewards of Bashful’s labor. Is this fair? In history, this arrangement is thought to be fair because it is an equity investment. An equity investment is one where the investor shares in the upside and the downside of the venture.


24. See, e.g., Brian M. McCall, Unprofitable Lending: Modern Credit Regulation and the Lost Theory of Usury, 30 CARDOZO L. REV. 549, 563 (2008). For example, an early Christian authority states that renting your field to a farmer in exchange for fruit is not a "cursed act" of usury. Id. The palea Ejiciens, a fifth-century Christian comment on usury, later incorporated in the twelfth-century canon law collection entitled the Decretum, reads: "Of all merchants, the most cursed is the usurer...[but] is not he who rents a field to receive the fruits...similar to him who lends his money at usury? Certainly not."

Id. at 562 (quoting JOHN T. NOONAN, JR., THE SCHOLASTIC ANALYSIS OF USURY 38–39 (1957)). See, e.g., M. Siddieg Noorzoy, Islamic Laws on Riba (Interest) and Their Economic Implications, 14 INT’L J. MIDDLE E. STUD. 3, 6 (1982) ("The argument [against interest] is aimed at encouraging capitalists to invest directly, through proprietorships or active partnerships, or indirectly through silent partnerships (mudaraba) and purchases of shares in corporations...").

25. See generally Jelle C. Riemersma, Usury Restrictions in a Mercantile Economy, 18 CAN. J. ECON. & POL. SCI. 17 (1952). A history of this idea is presented in Riemersma. "You saye, that, yf trading for money upon money be a hurtefull thing, and an offence to God, then is buying and selling also unlawfull. God forbidde. And thyss is my reason. In buying and selling your gayne is not alwayes certayne, as it is in usurie." Id. at 20–21 (citing THOMAS WILSON, A DISCOURSE UPON USURY (R.H. Tawney ed., London, G. Bell 1925) (1572)).

Tawney remarks in his introduction that "the essence of usury was that it was certain," but he does not develop the implications. The linking of usury and certain gain is to be found already in St. Thomas, who, around 1270, said that "the lender must not sell that which he has not yet namely the benefits accruing from the use of money and may be prevented in many ways from having." The full passage is: "Recompensationem vero damni quod consideratur in hoc quod de pecunia non lucratur, non potest in pactum deducere: quia non debet vendere id quod nondum habet et potest impediri multipliciter ab habendo." A pre-arranged reward ("in pactum") is condemned, because there is a vivid realization of uncertainty. Sancti Thomae Aquinatis...Opera Omnia (Rome, 1847), Summa Theologica, T. IX, Qu. LXXVIII, Art II, 159. In the Ordinance of London of 1390 we find: "si ascum apreste ou mette en mayns dascuny or ou argent, pur gaigner eut receivire ou promys en cartaigne sans aventure, eit la punishment pur usurers...." Georg Schanz, Englische Handelspolitik (Leipzig, 1881), I, 556. The same theme occurs again in the English usury prohibition of 1487: Any bargain is void in which "eny certeyn somme shall be lost by eny covenauor or promys betwys eny persone or persones." Tudor Economic Documents, II, 135–6. The ecclesiastical authorities assembled at
Note this arrangement is equivalent to Scrooge buying the ingredients and hiring Bashful to prepare the ice cream. This insight is especially helpful because you can contrast it with slavery. Here, Bashful does not have to continue working for Scrooge. Scrooge has agreed that if the venture makes no money, then Scrooge gets nothing. Bashful does not owe him anything. At any point, Bashful can leave Scrooge with half prepared ice cream. Notice also that this is not a sustainable way of making money. If too many people try to make money by saving and investing, and too few people spend money, then the investments will fail. Putting Scrooge’s money at risk

the 5th Lateran Council (1517) also linked usury and certain gain. See article “Wucher” in Lexicon für Theologie und Kirche, ed. M. Buchberger, X, 977.

Id. at 21 n.16 (citations omitted); see also Jerry Useem, Banking on Allah, FORTUNE, June 10, 2002, at 154 (“[F]ailure to repay a loan could mean slavery. By outlawing interest, Islam advocated an economy based on risksharing, fair dealing[s], and equity—in both the financial and social-justice senses of the word.”).

26. But what if they enter into a contract? Could Scrooge not use the contract to force Bashful to work, and is that not similar to slavery? Karl N. Llewellyn, one of the principal figures in contract law and the principal drafter of the Uniform Commercial Code, describes the evolution of contract law away from slavery:

With prohibition of slavery and peonage, abolition of imprisonment for debt, refusal of courts to enforce penalties although expressly agreed upon, all buttressed by usury legislation and limitations on the transfer of wages and future property, modern law moves definitely onto the basis of reparation for breach as the main purpose of legal remedy. Specific reparation—which, it will be noted, presupposes that the defendant has the wherewithal to perform—we have limited largely to the case of land. In the case of irreplaceable personal services we seek a compromise with the peonage-prohibition by enjoining against a competing employment and against inducement.


27. Notice how an investor in a failed venture has begrudgingly turned into a spender. In the example above, if the venture fails, then Scrooge has spent $10 for ice cream ingredients. This transformation of investor into spender provides a self-correcting mechanism by which society can balance the two activities. If too many people invest and too few people spend money on the products produced by those ventures, then the ventures will fail. The money invested in those ventures will be in the hands of the people who provided the labor and materials for the venture. Treasury Secretary Hank Paulson referred to this phenomenon in a recent interview regarding the economic crisis. Krishna Guha, Paulson Says Crisis Sown by Imbalance, FIN. TIMES, Jan. 2, 2009, at 1.

The US Treasury secretary said that in the years leading up to the crisis, super-abundant savings... put downward pressure on yields and risk spreads everywhere.

This, he said, laid the seeds of a global credit bubble that extended far beyond the US sub-prime mortgage market and has now burst with devastating consequences worldwide.

“Excesses... built up for a long time, [with] investors looking for yield, mis-pricing risk,” he said. “It could take different forms. For some of the European banks it was eastern Europe. Spain and the UK were much more like the US with housing being the biggest bubble. With Japan it may be banks continuing to invest in equities.”

This argument—already advanced by a number of economists and largely endorsed by Federal Reserve chairman Ben Bernanke—suggests that the roots of the crisis do not simply lie in failures within the financial system.
provides a self-correcting mechanism by which society can balance spending and investing.

In conclusion, Scrooge’s equity investment is troubling, as it allows him to earn money without working. But it is generally thought to be an acceptable arrangement because: 1) capital investment is necessary in society; 2) Scrooge’s money is at risk; and 3) Bashful continues the arrangement through his own free will.

E. Lend It

Now, let us say Scrooge does not want to make an equity investment. He wants to make an investment of pure debt. Pure debt, as the term is used here, means that Scrooge is absolutely entitled to a return. For example, Scrooge will give Bashful $10, and Bashful must pay Scrooge back $10 plus 3% interest per week. It does not matter what happens with the ice cream; Bashful still has to pay this amount. It does not matter if Bashful wants to quit. He cannot quit the arrangement. He will always be under the obligation to pay.

Remember that the equity investment was equivalent to Scrooge buying the ingredients and hiring Bashful to prepare them. A debt investment also can be analogized to an employment situation, except with one difference. Bashful cannot quit the arrangement. If he refuses to work now, the interest will pile up and he will have to do more work later. If his work does not generate the required payment to Scrooge, he will have to do more work until it does. Thus, it is no longer employment, but rather, it is slavery. 28

Id. Surprisingly, even savers can unwittingly turn into spenders. This is because when you save money in a bank, the bank invests a portion of it. This is called fractional reserve banking. If those investments fail, then the bank has effectively spent the depositors’ money. However, unlike the transformation of investor into spender, the transformation of saver into spender is inconsistent with basic notions of property rights. Whereas the investor voluntarily risked his money, the saver did not. For this reason, numerous government agencies are tasked with monitoring banks and seizing them when their depositors are about to be transformed into failed investors. As expected, such seizures become more frequent during recessions. See Eric Dash & Andrew R. Sorkin, Government Seizes WaMu and Sells Some Assets, N.Y. TIMES, Sept. 26, 2008, at A1 (“‘This institution was a big question mark about the health of the deposit fund,’ Sheila C. Bair, the chairwoman of the F.D.I.C., said on a conference call Thursday.”). Law professor Eric A. Posner, economist Bryan D. Caplan, and economist Walter Block recently debated whether fractional reserve banking was fraudulent. Posting of Eric Posner to The Volokh Conspiracy, http://volokh.com/posts/1225805194.shtml (Nov. 4, 2008).


[Us]ury laws have recognized that he who is under economic necessity is not really free. To put no restriction [sic] on the freedom of contract would logically lead not to a maximum of
This is why usury was historically made illegal. It harms society in two ways. First, it allows Scrooge to make money without doing anything and without bearing any risk of loss. Second, assuming the arrangement is enforced, in other words, that Bashful will be punished if he does not comply, then it can turn into slavery. By a combination of his cheapness and individual liberty but to contracts of slavery, into which, experience shows, men will "voluntarily" enter under economic pressure.

Id. (quoting Morris R. Cohen, The Basis of Contract, 46 HARV. L. REV. 553, 587 (1933)).


The canon law definition of usury as anything added to the principal had dominated European thought for five hundred years; the practice of usury had been forbidden by the church since the fifth century. . . . [There were two key reasons for this prohibition.] One was the theory, first stated by Aristotle, then formulated in Roman law and reformulated by Aquinas, that money was sterile or barren; it was a medium of exchange, but not productive. The other obstacle came from the Biblical prohibitions, particularly Deuteronomy 23: 19–20: "Thou shalt not lend upon usury to thy brother; usury of money, usury of victuals, usury of anything that is lent upon usury: unto a stranger thou mayest lend upon usury: but unto thy brother thou shalt not lend upon usury."


30. In the 17th and 18th centuries, the failure to pay a debt was punished with physical mutilation and/or debtor's prison. For an article describing these punishments, and seemingly lobbying for a return to harsh punishments, see D.N. Ghosh, Debt Defaulters as Darlings of Society, 34 ECON. & POL. Wkly. 866, 866 (1999).

31. For a modern example of debt-slavery, see SHAFAQ LONGI, UNABATED USURY, 4 (Middle East Research & Information Project) (1973).

In the interior of Sindh it is a frequent practice that when a peasant or a needy person borrows money from a moneylender, the wife of the oppressed borrower becomes the physical property of the moneylender, as a security against the loan. Until such time as the loan is repaid, with exorbitant interest, to the usurer, the moneylender, who is often a landlord or Wadera, uses the wife of the needy borrower for his sexual pleasures as and when he pleases.

Id. See also A. Yasmine Rassam, International Law and Contemporary Forms of Slavery: An Economic and Social Rights-Based Approach, 23 PENN ST. INT'L L. REV. 809, 820 (2005) ("Bonded laborers work in India’s agricultural sector and Pakistan's agricultural and brick-making sectors. In both systems, laborers work to pay off exorbitant debts that can be inhe-
debt, Scrooge can enslave a person. He can enslave the entire population. He will no longer have to pay them for their goods and services; rather he can get them to produce it for free, as interest payments on his debt.

You are probably wondering why we have debt in society today. The response is that we do not. In the United States there is no such thing as pure debt of this form. When you buy a bond, it may be called debt, but the corporation is not under an absolute obligation to pay. If it cannot pay you, it simply declares bankruptcy and you could receive nothing. Thus, under the definition used by this paper, that bond was equity because you shared in the downside. Some obligations are not dischargeable in bankruptcy, but even in those situations, the lender shares in the downside. The lender does not have an absolute right to repayment. For example, student loans are not dischargeable. However, even in these situations, the borrower does not have to pay the lender until he earns income. Even then, the borrower only

32. Despite the fact that we do not have pure debt in the United States, the tax code decided to treat “debt” and equity differently, allowing a deduction for payments to “debt” holders, but no deduction for dividends paid to equity holders. See Katherine Pratt, The Debt-Equity Distinction in a Second-Best World, 53 VAND. L. REV. 1055, 1058–60 (2000). Not surprisingly, courts have struggled to implement this fictitious distinction and tax planners regularly manipulate this fiction to reduce their tax bill. See, e.g., Nathan R. Christensen, Comment, The Case for Reviewing Debt/Equity Determinations for Abuse of Discretion, 74 U. CHI. L. REV. 1309, 1313–14 (2007)(listing thirty factors used by courts to distinguish debt from equity); see generally Pratt, supra (describing the difficulty of distinguishing debt from equity and evaluating various treasury proposals to eliminate the debt-equity distinction).


34. See, e.g., Jonathan Stempel, American Home to Pay Fraction of Bankruptcy Claims, REUTERS, Aug. 19, 2008, available at http://www.reuters.com/article/businessNews/idUSN193472020080819. “In a disclosure statement filed Friday with the U.S. bankruptcy court... the company said many unsecured creditors will recover zero to 2.2 cents on the dollar on their claims.” Id. One author argues that bankruptcy mainly benefits the professionals who handle the bankruptcy, at the expense of the creditors. See, e.g., SIDNEY RUTBERG, TEN CENTS ON THE DOLLAR, OR, THE BANKRUPTCY GAME 91–92 (1999).


has to pay a small percentage of his disposable income. Until the debtor earns sufficient income, the required payment will be so small that the debt is effectively void. So, the prohibition against usury is still alive and well in American law. But, there is one area where pure debt still exists—sovereign debt.


39. However, please note that the term usury has a specific meaning in American law, and that meaning is different from the historic definition used in this paper. Although the case law varies by state, generally four elements are required: 1) a loan; 2) of money; 3) that is absolutely repayable; 4) at a greater rate of interest than is allowed by the state. 9 SAMUEL WILLISTON & RICHARD A. LORD, A TREATISE ON THE LAW OF CONTRACTS § 20:4 (4th ed. 1999). Sometimes an additional element of intent is required. Id. For a paper arguing that interest rate limits inhibit a state’s economic growth, see Edward L. Glaeser & José Scheinkman, Neither a Borrower nor a Lender Be: An Economic Analysis of Interest Restrictions and Usury Laws, 41 J.L. & ECON. 1, 2 (1998). The authors, however, miss the point that the current legal definition of usury is very different from the historic definition of usury. See generally WILLISTON & LORD, supra. As described above, even if states allowed unlimited interest rates, it would still not amount to usury—in the historic sense—because bankruptcy laws and wage garnishment limits void the obligation to repay.

40. One paper suggests that the reason pure debt exists in the international realm is because there is no international government. See Alain Testart, The Extent and Significance of Debt Slavery, 43 REVUE FRANÇAISE DE SOCIOLOGIE 173, 197–99 (2002). He hypothesizes that debt slavery helped give rise to the state, i.e. a national government. Id. at 199. One reason debt slavery and government cannot coexist is that there can only be one master. Id. at 200. The king needs everyone’s allegiance, and he cannot lose subjects via debt slavery. Id. Extending this to the sovereign world, perhaps the lack of an international government is the reason why pure debt still exists in the sovereign world. Id. at 200–01.

F. Summary

The first section of this paper showed the problem with saving. If there is too much saving then people are not induced into productive activity. The next section described the problem with excessive investing. If there is too much investing and too little spending then the investments will fail. The last section described the danger of pure debt. If there is too much lending and too little spending then the lenders will enslave the debtors. Neither activity can replace spending. A world with too much saving—misery—and an inordinate desire to make money by investing or lending—usury—is dysfunctional.

III. The Sovereign World

The world of international economics is very much like the world described above. Nations can spend. For example, the people of the United States can pay the Japanese for goods or services. Of course, people from other countries can also hire Americans to produce goods and services. Nations can also save. For example, if you pay a Japanese person $500 for a new computer, he does not have to use that money to buy a good or service from you. He can save it.

Now let us add some economic terminology. When an American purchases a Japanese computer for $500, it is a $500 export from Japan and a $500 import into the United States. The United States is now running a trade deficit of $500. If you add these trade deficits—or surpluses—up for the year, and add a few other items, the amount is called the current account.

The other key term is the capital account—sometimes called the financial account. The capital account represents the total sum of wealth located in America and that is owned by people from other countries. This wealth could be in the form of American dollars, American real estate, American bonds, and so on. In the above example, the Japanese seller gained $500, and so the capital account went up by $500.


43. The term "located in" is this author’s simplification of the actual lengthy definition of the capital account.
The current account and capital accounts must be equal. The Japanese person is not going to give an American a computer unless the American gives him something of equal value in return. If the American gives him an equivalent good or service, then there is no trade deficit and no capital account. If the American gives him dollars, there is a $500 current account trade deficit and a $500 capital account.

Of course the Japanese person can also use the $500 to make an equity investment in an American company, gift it to an American, or he can make a pure debt loan to an American.

How can the Japanese make a pure debt loan, when such arrangements are outlawed in American courts? He can do so by purchasing American bonds. This is called sovereign debt—the debt owed by a nation’s government. There is an absolute payment requirement on sovereign debt. It does not matter if the venture financed by the debt failed. It does not matter if the country does not have the money to pay. The debt has to be paid. In history, lender countries have gone to abhorrent lengths to enforce sovereign debt, including wars.

44. Any difference between the two is labeled "Errors or Omissions" or "Statistical Discrepancy." For example, see News Release, Bureau of Econ. Analysis, U.S. Dep’t of Com., U.S. International Transactions: Third Quarter 2008 (Dec. 17, 2008), at tbl.1, row 71, available at http://www.bea.gov/newsreleases/international/transactions/2008/pdf/trans308.pdf. Note that although the above method is the most commonly used, there are other ways to do balance of payments accounting. See BALANCE OF PAYMENTS, EXCHANGE RATES, AND COMPETITIVENESS IN TRANSITION ECONOMIES 100–04 (Mario I. Blejer & Marko Skreb eds., 1999) [hereinafter BALANCE OF PAYMENTS].

45. For the third quarter 2008 accounting of the United States current and capital accounts, see News Release, Bureau of Econ. Analysis, U.S. Dep’t of Com., supra note 49 (showing that in the third quarter of 2008, Americans: 1) exported $346.5 billion of goods and imported $561.2 billion, for a deficit of $214.7 billion; 2) exported $142.5 billion of services and imported $104.3 billion, for a surplus of $38.2 billion; 3) American ownership of assets located in other countries decreased by $9.5 billion, and foreign ownership of assets located in America increased by $125.7 billion, increasing the capital account—this release calls it the financial account—by $135.2 billion; 4) there are other inflows and outflows—investment earnings and unilateral transfers—but those will be ignored here as they more or less offset each other). In sum, you see a current account deficit of $176.5 billion—$214.7 billion minus $38.2 billion—and a capital/financial account of $135.2 billion. Id. The difference between these two numbers is about $40 billion, and this is a measure in the error in the calculation. See id. It is labeled “Statistical Discrepancy” in the spreadsheet that accompanies the press release. Id. at tbl.1. For a detailed list of exports and imports, by type of product, see U.S. Census Bureau, U.S. International Trade Statistics, http://censtats.census.gov/sitc/sitc.shtml (last visited Feb. 21, 2009).

46. See supra note 41.

Now let us bring everything together. Let us list all the problems with sovereign debt: 1) the only reason the Japanese lender is owed this debt, is because he chose to be a miser. Rather than buy American goods or services, he chose to be cheap and save the $500; 2) this is not an equity investment by the Japanese. It is pure usurious debt, and if it is enforced it could potentially enslave the debtor nation; 3) it is robbing the world of productivity. Instead of hiring an American to do something productive, the Japanese has parked his money.

What is especially ironic is that the Japanese has also harmed himself. If the American does not earn any money, then he will not have money with which to buy additional Japanese goods. Saving does not just rob the American of productivity; it also robs the Japanese of productivity. This is analogous to what happened when Scrooge’s miserliness caused the eight person economy to completely shut down. Granted, the Japanese can lend money to the American, which the American uses to buy Japanese goods. In this case, the Japanese is induced into productive activity. But the American is still unproductive. He is borrowing to pay for his goods and services rather than working for them. So as you can see, the Japanese person’s decision to save the $500 is problematic.

IV. CHINA AND THE UNITED STATES

Over the last decade, China has played the role of Scrooge in international economics. China has accumulated the largest balance of trade surplus in world history. China’s vision for the world is apparently one where countries buy from them, but they buy as little as possible from other countries. The relationship with the United States is particularly egregious. During the years 2001 through 2007, China exported $1.43 trillion of goods to the Unit-
ed States, while importing only $0.27 trillion from the United States. This expectedly robbed Americans of jobs and productivity, and an estimated two million jobs were exported to China over this period.

China’s behavior is analogous to that of the miser because as it accumulates foreign exchange reserves of $2 trillion, private savings of $3 trillion, and almost no sovereign debt, it does so by depriving itself of needed goods and services. China is one of the most polluted countries in the world. They could hire Americans to solve this problem. Infrastructure is

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\begin{array}{lrrrrrrr}
299 & 365 & 485 & 656 & 837 & 1,062 & 1,342 \\
\text{Goods & services imported} & (271) & (328) & (449) & (607) & (712) & (853) & (1,035) \\
\text{Other items in current account} & (11) & (2) & 10 & 20 & 36 & 44 & 65 \\
\text{Current account} & 17 & 35 & 46 & 69 & 161 & 253 & 372 \\
\text{Cap. Acct. excluding for. exch. reserves} & 35 & 32 & 53 & 110 & 62 & 7 & 74 \\
\text{Foreign exchange reserves} & (47) & (75) & (17) & (206) & (207) & (247) & (462) \\
\text{Statistical discrepancy} & (5) & 8 & 18 & 27 & (16) & (13) & 16 \\
\text{Capital account} & (17) & (35) & (46) & (69) & (161) & (253) & (372) \\
\text{End of year cumulative for. exch. resrvs.} & 216 & 292 & 408 & 614 & 822 & 1,069 & 1,530 \\
\end{array}
\]


53. See Central Intelligence Agency, The World Factbook, Rank Order-Public Debt, https://www.cia.gov/library/publications/the-world-factbook/rankorder/2186rank.html (last visited Feb. 21, 2009). China’s public debt was only 16% of their GDP as of 2008, where as the United States had a 61% public debt to GDP ratio, and Japan had a 170% public debt to GDP ratio. Id.

underdeveloped in rural areas. Americans could build it for them. There is a shortage of education and healthcare in parts of China. Americans could provide these services. China needs a social insurance scheme. Americans can help create this scheme. But China refuses to spend money. Going back to the Dickens analogy, this is like when Scrooge saved money by eating a dinner of inexpensive gruel in a dark and cold room.

In addition, China is accused of appropriating intellectual property from American companies. China could have paid for this intellectual property. There are hundreds of other ways China could spend their surplus, but they refuse to, preferring to hoard money into an exorbitant pile.

What is particularly curious about China's behavior is that it is hard to understand its goal. If they do not spend money on American goods and services, Americans will not have money to spend on their goods and services. They are not only robbing Americans of productivity, but they are also

55. See Shenggen Fan & Xiaobo Zhang, Infrastructure and Regional Economic Development in Rural China, 15 CHINA ECON. REV. 203, 213 (2004) ("[T]he lower productivity in the western region is explained by its lower level of rural infrastructure, education, and science and technology."); Melinda Liu, Amb. Wu Jianmin: China's Economy and Environment in 2009, NEWSWEEK, Jan. 12, 2009 (quoting China's Ambassador Wu Jianmin, "Now there are about 320 million people with no access to safe drinking water, and 75 percent of disease comes from water pollution.").


"Household savings appear to be affected by uncertainty about future costs of health care and education." In other words, the inadequacy of social protection makes people reluctant to spend money they may need for their old age and future health care. "Removing this uncertainty and providing more insurance would support private consumption."

57. DICKENS, supra note 5, at 18.

[He] sat down before the fire to take his gruel. It was a very low fire indeed; nothing on such a bitter night. He was obliged to sit close to it, and brood over it, before he could extract the least sensation of warmth from such a handful of fuel.


59. In December of 2008, Zhou Xiaochuan told Secretary of the Treasury, Henry Paulson, "the US should take the initiative to . . . reduce its trade and fiscal deficits." Geoff Dyer, Chinese Officials Lecture Paulson, FIN. TIMES, Dec. 5, 2008, at 2. What is remarkable about this comment is that the United States trade deficit is caused by its relationship with China. Is Mr. Wang telling Americans to stop buying Chinese goods? If not, how else are Americans supposed to eliminate the trade deficit?
robbing themselves of productivity. It is very likely that, had China spent their trillions in foreign exchange, the world could have avoided the current recession, and the Chinese government would not have to worry about employment riots.

V. THE ARGENTINA EXAMPLE

Finally, the last section of this paper looks at how Argentina dealt with its sovereign debt crisis. This is intended to give a sense of what America’s worst case scenario could look like. Of course, America is not Argentina. America has approximately eight times the population of Argentina. America possesses human and natural resources that Argentina did not possess. America has a gigantic military and political sway in the world. Most importantly, America does not need to default on the debt; the debt is denominated in dollars and America could simply inflate the debt away. But by studying Argentina, and seeing that even a weak nation like Argentina can overcome

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60. See Sebastian Mallaby, What OPEC Teaches China, WASH. POST, Jan. 25, 2009, at B7 ("Starting around the middle of this decade... the earnings from [China’s trade] surplus poured into the United States [as deposits and loans]. The result was the mortgage bubble."); When a Flow Becomes a Flood, THE ECONOMIST (Jan. 22, 2009) ("The deep causes of the financial crisis lie in global imbalances—mainly, America’s huge current-account deficit and China’s huge surplus").


63. See Gerald P. O’Driscoll Jr., Washington Is Quietly Repudiating Its Debts, WALL ST. J., Aug. 22, 2008, at A15. The United States was able to borrow in dollars because the dollar is a global currency. However, some governments do not have this luxury and are forced to borrow in a currency other than their own. For example, Argentina had to issue debt in dollars, not their home currency, the peso. See also Gabriel Gomez-Giglio, A New Chapter in the Argentine Saga: The Restructuring of the Argentine Sovereign Debt, 20 J. INT’L BANKING L. & REG. 345 n.2 (2005) ("[A]s of June 30, 2004, Argentina’s total gross public debt was US $181.2 billion (113.1% of GDP), 69.1% of which is owed to bondholders. Peso-denominated debt totaled US $43.6 billion and foreign currency-denominated debt totaled US $137.6 billion."). For an example of an Argentinean dollar denominated offering, see Argentina Issues $2 Billion of Global Bonds Through J.P. Morgan and Merrill Lynch, BUS. WIRE, Jan. 22, 1997.
its debt problem, and thrive, it becomes clear that concerns over America’s debt are overblown.

There were numerous reasons for Argentina’s debt. One was its current account deficit. Between 1992 and 1999, Argentina imported $252 billion in goods and services and exported only $222 billion. What exacerbated Argentina’s situation was the government’s promise to convert pesos into dollars on a 1:1 basis, even though an Argentinean peso was not worth one dollar. This made the problem worse because it caused imports to be cheaper than their true value, increasing the trade deficit.

This convertibility policy caused problems in other ways. It is hard to see why anyone would hold a peso when they could trade it for a dollar. Banks and citizens wanted to deal in dollars, and they converted their pesos into dollars to facilitate these deals. In addition, Argentina privatized a

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<th>Imports of goods and services</th>
<th>Balance on goods and services</th>
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<td>31</td>
<td>39</td>
<td>(8)</td>
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</tbody>
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66. Id.


68. See Roberto Frenkel, Argentina: A Decade of the Convertibility Regime, 45 CHALLENGE 41, 54 (2002) (“[P]rivate-sector savers have shown preference for dollar-
number of its utilities. In these arrangements, wealthy foreigners would buy Argentina's utilities, and charge them for things like water. The problem is that these foreigners would demand not just the cost of producing the water, but also an additional amount as profit, which again had to be paid in dollars. Where did the Argentinean government get the dollars needed to pay all these demands? By borrowing it? Obviously this could not continue. As long as other countries refused to buy Argentinean goods and services, Argentineans would never have the money to pay this debt back.

Eventually it all came to a boil. The debt service was impossible to meet, and Argentina had one of two choices. One was to follow an austerity plan recommended by the International Monetary Fund (IMF). Argentine was to raise taxes, further hurting its already beleaguered economy, cut subsidies to the poor and otherwise sacrifice, so the revenue gained could be used to pay the debt.

In a sense, this is like Scrooge telling Bashful to donate blood or a kidney, so as to raise money to pay the interest on Scrooge's loan. Bashful would never do that. He would remind Scrooge that the only reason he owes

69. See id at 42 ("Argentina embraced a comprehensive economic reform effort at the beginning of the 1990s. In addition to convertibility, it included a massive privatization of public utilities ... "). During the 1990s, the privatization of utilities was thought to be beneficial. See e.g., Elizabeth Brubaker, Toronto Water Fight: Toronto Faces a Motion to Reject the Idea of Privatizing Its Water and Sewage Systems. Worldwide Experience Shows That Could Be a Mistake, NAT'L POST, Feb. 25, 1999, at C7.

70. See id.

71. See LOWENFELD, supra note 42, at 727. Once Argentina defaulted on its debt, it also immediately froze the fees paid for privatized gas, electricity, telephone, and water utilities. See id. In addition, these fees were now paid in pesos, which were no longer convertible into dollars on a 1:1 basis. Id. ("In an effort to restrain inflation, as well as to calm the population, tariffs on privatized public utilities—gas, electricity, telephone, and water—were frozen indefinitely at their nominal level, now expressed in pesos no longer equivalent to, or convertible into dollars.")

72. See Stiglitz, supra note 65.

73. See id.

74. See id.

75. Id.

76. See Stiglitz, supra note 65.
this debt is because the miser Scrooge refused to buy his goods and services. Had Bashful known that Scrooge would behave this way, Bashful would not have hired Scrooge. No one would have hired Scrooge. Scrooge would not have earned the money that he is now attempting to use to enslave the dwarves. The dwarves’ society was functioning perfectly well until Scrooge’s cheapness ruined it. The dwarves would not allow this and that is exactly how Argentina responded. Néstor Kirchner, the newly elected Argentinean President said: “It is not possible to return to paying the debt at the cost of the hunger and exclusion of Argentines, generating more poverty and social conflict.”

Drawing thunderous applause, he continued: “Creditors have to understand that they can only collect if Argentina is doing well.”

What happened next was that Argentina limited its dealing with other countries. Rather than buy foreign goods, Argentineans produced the goods domestically. If foreigners were not going to hire Argentineans to produce products, they would hire themselves to do it. The privatization contracts were all immediately put up for renegotiation. Argentineans were not going to allow someone in another country to charge them high rates for their own water. The convertibility regime was also ended. From that point on Pesos were converted at about a four peso to one dollar basis. What followed is, not surprisingly, one of the biggest economic turnarounds

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78. Id.
79. Id.
80. Between 2000 and 2002, Argentina’s imports of goods and services dropped from $33B to just $13B. See supra note 64.
82. Legal Tango, FOREIGN DIRECT INV., Aug. 1, 2005, available at http://www.fdimagazine.com/news/fullstory.php/aid/1336/Legal_tango.html (last visited Feb. 21, 2009). Of course this was a breach by Argentina of their original agreements. See id. This led to efforts by the other parties to enforce the agreements. See id. Many of these were arbitrated at the International Centre for Settlement of Investment Disputes. Id. For a paper describing potential difficulties in enforcing these awards, see Charity L. Goodman, Comment, Uncharted Waters: Financial Crisis and Enforcement of ICSID Awards in Argentina, 28 U. PA. J. INT’L ECON. L. 449 (2007).
83. See INTERNATIONAL MONETARY FUND, supra note 67, at 728.
84. Id.
in recent memory. Argentina no longer had a trade deficit, but instead it had a large trade surplus. Its GDP started growing at an amazing 8% per year. In summary, things worked out for Argentina. Going back to the original example, it is as if the Dwarves decided to stop interacting with Scrooge and return to their pre-Scrooge society.

VI. CONCLUSION

Over the past decade Americans have spent trillions of dollars on Chinese goods and services. This created employment in China and helped the country achieve its potential. The Chinese responded by taking that money and hoarding it. But a relationship where Americans spend and Chinese save and lend is not viable. Miserliness and usury are pernicious economic strategies that were discredited centuries ago.

The United States magnanimously took the first step and spent to establish a trading relationship. It is now China’s turn to spend to continue that relationship. Only when China takes the money Americans spend to employ Chinese, and uses it to employ Americans, will there be a sustainable relationship that can tap the productive potential of both countries.


86. See supra note 64.


88. Recently, China’s leaders have responded to criticism of China’s refusal to spend. Geoff Dyer and James Blitz, China to Go on European Spending Spree, FIN. TIMES, Feb. 2, 2009.

China will set up “procurement missions” to buy goods and technologies in Europe in an effort to stem protectionist sentiment in the region against its exports. Wen Jiabao, the Chinese premier who was talking in London on Monday at the end of a five-day trip to Europe, said the procurement trips would be established as soon as possible. “Confidence is the most important thing, more important than gold or currency,” Mr Wen said at a meeting with Gordon Brown, the British prime minister, and business leaders. China would seek to purchase commodities and technologies needed by its companies in an attempt to “help us restore and shore up confidence in the market.”

Id.

[China’s central bank governor], Mr. Zhou, published his thoughts on high savings rates, the flip side of US borrowing. China resents suggestions that its “excess savings” are linked to excess spending elsewhere. In his paper, Mr Zhou argues that, contrary to mechanistic arguments that savings rates can be influenced by policy, the Chinese propensity to save has cultural roots, specifically a Confucianism that “values thrift, self-discipline . . . and anti-extravagancy.”

David Pilling, China Is Just Sabre-Rattling over the Dollar, FIN. TIMES, Apr. 1, 2009.

89. See Calla Wiemer, Wrong on the Yuan, ASIAN WALL ST. J., Jan. 29, 2009, at 13 (“The policy focus should be on stimulating consumption in China.”).
Thus, criticism of America’s debt is misplaced. It is not America who should be criticized, but rather China, whose refusal to spend deprives itself of needed goods and services, deprives the world of productivity, threatens international trade, and may have sent the global economy into a depression. Further, concerns about China using debt to control the United States are overblown. The days when a lender could turn into enslaver, even in the sovereign world, are long gone. Finally, characterizing China’s accumulation of dollars as “currency manipulation” may pave the way for legal retaliation, but it fails to address the underlying cause. China does not accumulate foreign currency to manipulate the exchange rate. It accumulates foreign currency because it does not want to spend. China’s holdings of foreign exchange are roughly equal to its cumulative trade surplus over the past decade. China is not intervening in the currency markets. Rather, it is simply not spending the foreign currency received in trade.

90. See Willem Buiter, Beware Trade Wars, FIN. TIMES, Jan. 27, 2009, at 8. Much of what Congress and some members of the Obama administration have in mind [in response to China’s currency accumulation] is likely to be in clear violation of America’s WTO obligations. It would provoke a response from China. The bilateral trade war that is likely to result could easily spread to the European Union, Japan and emerging markets.

Id.


But before we conclude that a devaluation should unambiguously be seen as a violation of WTO commitments, we must consider the implications of price flexibility. In fact, on that assumption, a devaluation . . . has no real effect on any economic magnitudes for China or any of its trading partners. This well-known proposition simply reflects the “long-run neutrality” of money in a setting in which all prices are fully flexible.

Id. (emphasis omitted).