

Institution: University of Kent
Unit of Assessment: 20
Title of case study: Credit, Over-Indebtedness and Personal Insolvency
<p>1. Summary of the impact</p> <p>Professor Iain Ramsay's research into personal insolvency and regulation of consumer credit has had a far-reaching, significant impact, which has been felt in four major ways. First and most recently, Ramsay has drawn on his published research to co-author a highly influential World Bank report, which forms the foundation for future policy in this area and has already been relied upon in the Colombian national reform process, with India and South Africa likewise proposing to use it to frame their domestic reform discussions. Second, a number of influential UK governmental and non-governmental committees (including the Select Committee on Business, Innovation and Skills, National Audit Office and Office of Fair Trading) have each drawn on Ramsay's research. Third, Ramsay has been invited to advise other national governments and commissions (including Ireland, and Sweden), as well as acting as the UK rapporteur on EU studies (e.g. of interest rate ceilings). Finally, he has drawn on his research to advise NGOs in Europe, Latin America and at the international level (including The Centre for Responsible Credit; Consumers International; the International Protection of Consumers Committee of the International Law Association; and Brasilcon).</p>
<p>2. Underpinning research</p> <p>Between 1997 and 2013, Ramsay has built up a focused, coherent and substantial body of research into credit, over-indebtedness and personal insolvency. Research conducted since his appointment to Kent in 2007 has made a distinct and significant contribution to this body of work. In particular, building on earlier research published in the <i>American Bankruptcy Law Journal</i> (funded by a SSHRC Canada Grant 410-96-1724) and the <i>University of Illinois Law Review</i>, since 2007 he has extended his general analysis of personal insolvency and further elaborated its policy ramifications (output 4), deepened his analysis of European systems of personal insolvency (outputs 2, 3) and further developed a comparative analysis of interest rate ceilings (output 1). These contributions are essential to the impacts described below.</p> <p>Ramsay's research involves theoretical and empirical elements. Building on his extensive, ground breaking quantitative and qualitative research into Canadian personal insolvency law, Ramsay has subsequently developed this work in other national and supra-national contexts including the UK, France and the EU (outputs 2 and 3) and conducted substantial comparative analysis of this area (outputs 1-4). The salient key insights of this research have been:</p> <ul style="list-style-type: none"> • Identification and comparative analysis of the characteristics of insolvent individuals, in terms of demographics, occupational status, homeownership, and reasons for insolvency (output 2). • Highlighting the central role of intermediaries (such as lawyers and accountants) in shaping the process and the experience of individuals, and in some cases steering individuals to particular solutions that favoured professional interests over those of the clients (output 3). • Delineating the costs, benefits and other effects of distinct institutional (public/private) frameworks for managing over-indebtedness in different countries (output 4). • Developing an understanding of the political dynamics of this area of law, and the role of different interest groups and state actors in shaping it (output 3). <p>Taken together, these insights have offered a significant platform from which to rethink regulatory frameworks that are sensitive to the advantages and disadvantages of different institutional models (output 4); to the specific needs and vulnerabilities of different demographic groups; and to the kinds of vested interests that might serve to distort or undermine regulatory goals (output 4).</p>

3. References to the research

1. Ramsay, "To Heap Distress upon Distress" Comparative Reflections on Interest Rate Ceilings' (2010) 60 *University of Toronto Law Journal* 707-730. REF2
2. Ramsay, 'Between Neo-Liberalism and the Social Market: Approaches to Debt Adjustment and Consumer Insolvency in the EU' (2012) *Journal of Consumer Policy* 421-441.
3. Ramsay, 'A Tale of Two Debtors: Responding to the Shock of Over-Indebtedness in France and England - A Story from the *Trente Piteuses*' (2012) 75 *Modern Law Review* 212-248. REF2
4. World Bank, *Report on the Treatment of the Insolvency of Natural Persons* (2012) http://siteresources.worldbank.org/INTGILD/Resources/WBInsolvencyOfNaturalPersonsReport_01_11_13.pdf (drafted by Ramsay and three others).

4. Details of the impact

Ramsay's significance as "the leading academic in the field" (source 6) has been recognised in a number of highly influential, senior advisory and consultancy roles, which have allowed him to feed in the insights of his research at the very highest levels. This has ensured the impact of his body of research internationally, particularly through his work for the World Bank; domestically within the UK and in a range of other jurisdictions; and through advice offered to significant NGOs.

a) The World Bank Report on the Treatment of the Insolvency of Natural Persons

Ramsay was one of four members of the working group invited to draft this carefully argued and wide ranging report (output 4), which outlines central issues and challenges in the development of an insolvency system for natural persons and management of the risks of personal insolvency. Ramsay's research on different institutional frameworks for managing over-indebtedness and insolvency (output 3) and insights on the role of public and private actors directly influenced the discussion of 'Institutional Frameworks' in the Report (see especially at pp. 53-69).

Users of the report include policymakers, particularly in emerging and developing economies, international organizations, the judiciary, lawyers, insolvency practitioners, and financial and credit institutions that provide credit to natural persons. Although the document is not intended to establish a binding international standard, it is expected that it will be the focal reference point for countries establishing insolvency systems for natural persons and those reforming existing systems. Responses from international organisations and representatives of emerging economies have already been very positive. The International Bar Association describes it as a 'truly superb piece of work' that was on the agenda of the IBA insolvency annual conference in May 2013 in Prague (source 2). The eminent US bankruptcy judge, Sid Brooks, described it as 'a unique and important contribution to the development of consumer insolvency law in all countries, developing and otherwise', 'an excellent discussion and superb guide to understanding the fundamentals and principles of personal bankruptcy law regardless of its origin and a useful, valuable tool for crafting and implementing consumer insolvency laws where they are not otherwise in place or are being modified to meet needs of a modern commercial law system' (source 3).

Colombia has used the draft report in its recent insolvency reforms and India proposes to use it as a basis for reform discussion (sources 4, 5). It has been translated into Russian. Dissemination events have been held in Mexico City, Kiev, New Delhi and South Africa as well as at the United Nations Commission on International Trade Law (UNCITRAL) in Vienna. The Report has stimulated interest from the EU in relation to its current work on over-indebtedness and personal insolvency and Ramsay presented the findings of the report in February 2013 to the Financial Services Users Group (FSUG) of the EU Commission, and to an invited seminar at DG EC-Fin in June 2013 as well as presenting findings (with Jose Garrido of the World Bank) at the International Insolvency Practitioners' Association (INSOL) World conference in May 2013.

b) Impact on the work of UK Governmental and EU Committees.

Ramsay's work has had impact on several influential committees and Government departments:

- *The Office of Fair Trading*. Ramsay's research on comparative interest rate ceilings (output 1), influenced the OFT's Report on High Cost Credit (2010), which quoted from it at length (see source 7) in identifying the politics of interest rate ceilings, the different rationales and forms of ceilings, the market consequences and the complexities in assessing their costs and benefits.
- The *National Audit Office* consulted Ramsay as "the leading academic in the field" of consumer credit (source 6) in connection with the investigation of OFT regulation of consumer credit and, drawing on output 1, he supported that work.
- *The Select Committee on Business, Innovation and Skills* on "Debt Management" (November, 2011). Ramsay's oral testimony on the desirability of codes of practice for payday loan markets was quoted in the final report (source 1, para 69).
- Ramsay has acted as the UK rapporteur and consultant on EU studies on consumer credit (e.g. IFF Study of Interest Rate Ceilings in the EU: Final Report, drawing on output 1, source 8).

c) Influence on other National Governments.

Ramsay's research has had considerable impact on the work of other governments, including:

- The development of Brazilian consumer policy and consumer credit regulation relied extensively on Ramsay's research, most recently in revisions to the consumer code in Bill 281, 2012 Federal Senate of Brazil (source 9). Professor Claudia Lima-Marques notes: 'Prof. Iain Ramsay was one of the most important foreign authors, which have inspired with his theories the Brazilian Reform of the 1990 Consumer Protection Code, specially by the new regime of consumer Bankruptcy include in the Bill 281, 2012 Federal Senate of Brazil and also the regime of the prevention of over-indebtedness' (source 10).
- The Irish Law Reform Commission drew on his research in undertaking reform of debt enforcement procedures. In this context, Ramsay was invited to present the findings of his research on debt and insolvency at a seminar organised by the Commission (2010).
- A review of Swedish over-indebtedness policy consulted Ramsay in relation to interest rate ceilings (meeting with Anna Hedborg, Chair Swedish Over-indebtedness Committee, Stockholm, 31 October 2012, drawing on output 1).

d) Influence on the Work of Key NGOs.

Ramsay's research has had a significant influence on the work of important NGOs, including:

- *The Centre for Responsible Credit*. Ramsay had significant input into this NGO's work on payday lending, including chairing a Parliamentary round table on the subject and providing information for their advocacy to establish the power to regulate the price of high cost credit. A parliamentary amendment to the Financial Services Act 2012 was successfully introduced during the passage of the Bill conferring power on the new Financial Conduct Authority to regulate the price of credit. Damon Gibbons, chair of the CFRC thanked Ramsay as one of the academics who ensured that the campaign was as 'well informed as it could be' describing the advice received as 'invaluable' (source 11, drawing on output 1).
- *Consumers International* (the world federation of consumer groups). Ramsay was an invited speaker for a capacity building seminar on consumer credit regulation in London for a visiting high level Russian Federation delegation, organised by CI in association with the World Bank (February 2013, drawing on outputs 1, 4).
- *Brazilian NGOs*, including *BRASILCON* (the influential consumer organisation) have been strongly influenced by Ramsay's research (source 10).
- *The International Protection of Consumers Committee of the International Law Association*. As a Committee member, Ramsay's work on credit and insolvency influenced the 2010 and 2012 reports of the Committee and the adoption by the International Law Association of resolutions

on consumer protection (source 12).

5. Sources to corroborate the impact

1. Select Committee on Business, Innovation and Skills, Report on “Debt Management” (Fourteenth Report of Session 2010–12, HC 1649), citing Ramsay’s oral testimony on the desirability of codes of practice for payday loan markets at para 69.
2. Gregor Baer, International Bar Association, email to the World Bank (7 May 2013) describing the World Bank Report, which draws on Ramsay’s research, as a ‘truly superb piece of work’.
3. Judge Sid Brooks, email to the World Bank (10 May 2013), describing the Report as ‘a unique and important contribution’, a ‘superb guide’ and a ‘valuable tool for crafting and implementing consumer insolvency laws where they are not otherwise in place or are being modified.’
4. Note by Jason Kilborn, chair, drafting committee, <http://www.creditslips.org/creditslips/2013/02/consumer-bankruptcy-around-the-world-bank.html>, confirming that Colombia used the draft report in its recent insolvency reforms.
5. J. Garrido, Senior Counsel Insolvency and Creditor/Debtor Regimes Initiative, World Bank, June 15, 2013, August 28, 2013; V. Tata (Chief Counsel Finance, Private Sector and Infrastructure Legal Vice Presidency, World Bank, 7 May 2013 (emails on file): confirming that India intends to use the Report to frame its discussion of insolvency reform and discussing wide dissemination and impact of the World Bank report including current work in South Africa.
6. D. Tlupova, member NAO investigation team, OFT (National Audit Office) (e-mail dated 28 May 2012) requesting Ramsay’s advice, ‘as the leading academic in the field’.
7. Office of Fair Trading, High Cost Credit Review (2010, OFT1232), quoting at length from Ramsay’s research in identifying the politics of interest rate ceilings, the different rationales and forms of ceilings, the market consequences and the complexities in assessing their costs and benefits (see ‘Annexe B Evidence and Arguments surrounding Price Control and Interest Rate Caps for high cost credit’, paras 1.6, 3.1, 3.2, 6.7, 7.2, 7.4, 8.3, 10.1, 11.5, 13.2, 14.2, 14.3, 14.5.)
8. http://ec.europa.eu/internal_market/finservices-retail/docs/credit/irr_report_en.pdf. Ramsay drew on his research to act as UK rapporteur and consultant on this EU study on consumer credit.
9. http://www.senado.gov.br/senado/codconsumidor/pdf/extrato_relatorio_final.pdf, referencing Ramsay’s research in describing revisions to the Brazilian Consumer Code.
10. Extensive references to Ramsay’s research in Brazilian legislative, judicial and academic publications relating to consumer policy and consumer credit regulation are on file, provided by Professor Claudia Lima Marques, who describes Ramsay as ‘one of the most important foreign authors’ to inspire reform of the 1990 Brazilian Consumer Protection Code.
11. Damon Gibbons, Chair of the Centre for Responsible Credit, discussing a successful campaign to enshrine in statute the power to regulate the price of credit and thanking Ramsay as one of the academics who ensured that this was as ‘well informed as it could be’, noting the advice received had been ‘invaluable’ <http://www.cesi.org.uk/blog/authors/damon-gibbons>.
12. For the ILA Consumer Protection Committee report and resolution, which was influenced by Ramsay’s research on credit and insolvency, see <http://www.ila-hq.org/en/committees/index.cfm/cid/1030>.