

How Individuals' Narratives Can Communicate What Legal Theory and Statistics Can't

Broke: Hardship and Resilience in a City of Broken Promises
Jodie Adams Kirshner (St. Martin's Press 2019), 342 pages

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In *Broke: Hardship and Resilience in a City of Broken Promises*,¹ author and bankruptcy professor Jodie Adams Kirshner examines the consequences of the City of Detroit's 2013 bankruptcy filing on the city and its residents. Her thesis, based on her study of various municipal bankruptcies, is that municipal bankruptcies do not produce the same type or level of positive outcomes as do corporate or individual bankruptcies and, in fact, can have negative consequences on the residents of those municipalities that have sought bankruptcy relief. As Kirshner states, "for changing the future of a city, bankruptcy offers a limited tool. Bankruptcy offers a legal process for restructuring debt. It does not address the deeply rooted problems that reduce municipal revenues."² In *Broke*, as she discusses causes and consequences of Detroit's bankruptcy case, Kirshner presents in detail the lives of several Detroit residents, her "protagonists,"³ as a foundation and proof of this thesis.

Broke is a book of interest to anyone involved in bankruptcy work because it concerns the bankruptcy of a city, a type of bankruptcy case that has been rare but has become more frequent in the last ten to fifteen years.⁴ But more generally, *Broke* illustrates the power of storytelling

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¹ JODIE ADAMS KIRSHNER, *BROKE: HARDSHIP AND RESILIENCE IN A CITY OF BROKEN PROMISES* (2019).

² *Id.* at 276.

³ *Id.* at xxv.

⁴ *Id.* at xix–xxi.

to show the effect of government process and decisionmaking on individuals. Data on the number of individuals affected by a law or by an economic downturn, the dollar figure of economic losses or penalties, and the abstract explanation of causes of reversals of fortune can be dry, cold, and distant. The stories of the seven individuals that Kirshner presents in her book reveal the full impact of one event or decision on the life of that individual, with consequences that data alone would not suggest to a reader's mind. Through reminiscences about the past as well as details of their current lives, the individuals' stories told here give the reader a glimpse into the past and present of both Detroit and its residents.

In July 2013, the City of Detroit became the largest municipality to file a Chapter 9 bankruptcy petition. It emerged from bankruptcy after "[s]eventeen months and nearly \$180 million in fees and costs."⁵ Through the bankruptcy, the city was able to reduce its obligations by cutting some city employees' pensions by 7%, paying financial creditors at the rate of 13 cents on the dollar, and obtaining \$325 million in new loans to carry out future operations and services.⁶ Yet those financial achievements did not solve the ongoing problems of a city with an impoverished and declining population, diminished job opportunities, and a decreased tax base. Consequently, Detroit's emergence from bankruptcy did little to aid city residents in their lives but instead, in numerous cases, imposed additional burdens.

Kirshner explores the many causes of Detroit's problems over the past decades. Automation and reduced transportation and communication costs allowed employers to cut jobs or move production elsewhere.⁷ Starting in the 1980s, the federal government reduced federal aid to cities even though cities are "generally . . . home to the largest numbers of poor and marginalized individuals most dependent on public services."⁸ A school busing decision in 1974 spurred the move of families from the city to suburbs, affecting both the city and its school system.⁹ The subprime mortgage crisis of 2008 turned many Detroiters from homeowners into renters, when home ownership is generally an important financial asset for the average person.¹⁰ The fall in both city property and income tax revenues resulted in fewer resources to provide municipal services,

⁵ *Id.* at xviii–xix.

⁶ *Id.* at xix.

⁷ *Id.* at 7.

⁸ *Id.* at xxi.

⁹ *Id.* at 30–31 (discussing *Milliken v. Bradley*, 418 U.S. 717 (1974) (holding as impermissible under the facts of the case multidistrict busing to cure single-district de jure segregation and thus preventing busing between Detroit and its suburbs)).

¹⁰ *Id.* at 19 ("Between 2005 and 2015, mortgage foreclosure turned 100,000 Detroit homeowners into renters, eliminating wealth from local families and from the city:").

causing the city, post-bankruptcy, to raise various rates and fees to generate revenue, while also cutting services to reduce costs. With fewer jobs and opportunities, a rise in crime occurred, which the reduced level of police and fire services could not stem. The Detroit school system also faced problems because of lost tax revenue and a decreasing student population. Families left Detroit or chose to enroll children in charter schools in the city, thus draining away from the city's public school system both students and the revenue per student devoted to education.¹¹

Interspersed with these facts and analyses of Detroit's history, its bankruptcy, and its current condition are the stories of seven current Detroit residents. Each of these stories shows in concrete detail the impact of the city's past decline and current state on the daily lives of Kirshner's protagonists. Beginning in 2016, Kirshner began interviewing over 200 individuals in Detroit. Her seven protagonists range in age from mid-20s, to 40s and early 50s, to early 60s, some African American, some white. Most were native Detroiters, but a few had recently moved to Detroit. Most were struggling financially, but some had greater resources they hoped to use in establishing businesses in Detroit. All have been hindered in their lives and plans by the situation of Detroit—economic, financial, and social—during and after its bankruptcy.

The stories of these individuals illustrate the consequences, for many residents, of Detroit's changed status from a manufacturing center to a "rust-belt" city, which bankruptcy has not addressed. For example, state residents faced subsidiary fees, such as driver responsibility fees and driver reinstatement fees, imposed by the state to increase revenue, in addition to penalties for various driving misdemeanors.¹² In addition to those penalties and fees, Detroiters pay extremely high auto insurance rates.¹³ One of Kirshner's protagonists, Miles, is a construction worker who needs his truck to get to construction jobs and to pick up necessary materials. Problems with high-cost insurance and his driver's license and subsidiary fees result in his losing much of his construction work, while dealing with these legal issues;¹⁴ his resultant loss of income jeopardizes his home ownership and his financial stability. In addition, although Miles reviewed tax records before buying his home, the city's poor record-

11 *Id.* at 153–56.

12 *Id.* at 141. Driver responsibility fees, begun in 2003, were eliminated in Michigan as of October 1, 2018. In addition, outstanding unpaid fees were waived, including some \$100 million in fees owed by 70,000 Detroit drivers. Previously, unpaid fees could prevent a driver from reinstating a suspended driver's license. Steven M. Gursten, *No More . . . Michigan Driver Responsibility Fee Waived in 2018*, MICHIGAN AUTO LAW (Oct. 18, 2018), <https://www.michiganautolaw.com/blog/2018/10/11/michigan-driver-responsibility-fee-waived-in-2018/>.

13 Kirshner, *supra* note 1, at 139.

14 *Id.* at 140–44, 166–67. "Local governments found a steady revenue source in fines and fees." *Id.* at 173.

keeping had not reflected one year's back taxes, such that he was hit two years after his purchase with a notice of a tax foreclosure that he was ill-situated to pay and ill-informed to fight.¹⁵

The individual stories also show how Detroit's inability to attract and develop businesses undermines residents' efforts to work and establish a sound financial situation for themselves and their families. Another of Kirshner's protagonists, Lola, is a young, college-educated single mother who loses her managerial job in the city after her company moves its operations elsewhere. Unable to find a job in Detroit, she must endure a long commute to entry-level work in the suburbs¹⁶—until her car is stolen. Only the presence of grandparents able to drive her to work and her child to school enable her to remain in her job and in her home in Detroit.¹⁷ She and her young daughter also face the dangers of increased crime when a drive-by shooting sends several bullets into the home she is renting.¹⁸

Detroit's diminished economic opportunities have a direct consequence on the ability of its residents to maintain a home. A few of the protagonists own a home they have purchased or inherited from parents, but often it is in disrepair or in a particularly unsafe and unpopulated area of the city, where homes have given way to vacant lots and abandoned and vandalized houses.¹⁹ They want to stay in their homes—and often have no choice because sale at the current value would not allow them to find housing elsewhere.²⁰

Much like poor members of any community, too many Detroit residents cannot buy a home, even at depressed prices, because they lack a down payment and cannot obtain bank financing.²¹ Thus, they rely on land contracts to try to acquire ownership of a home, too often unsuccessfully. A land contract requires periodic payments, like a lease; only when the full price is paid does title transfer. Any breach, however, results in eviction (without the need for court process), loss of whatever money has been paid to the seller, and loss of improvements that the purchaser has made in the property. Reggie, another protagonist of the book, invests much effort and money into his home, only to find himself losing all—even after having paid off the land contract—because the seller failed to pay property taxes.²² When he lacks the money to put a new furnace in a new house, again purchased under a land contract, he and his partner, life-long Detroit residents, consider leaving the city.²³

15 *Id.* at 72–82.

16 *Id.* at 53–58.

17 *Id.* at 72–82.

18 *Id.* at 211–14.

19 *Id.* at 32–33.

20 *Id.*

21 *Id.* at 24 (noting that mortgage lenders stopped writing mortgages in Detroit on houses under \$50,000).

22 *Id.* at 90–91.

23 *Id.* at 216.

Transplants who came to Detroit for the opportunities it offers see slower progress than they hoped for, even though they are better situated to weather financial downturns than long-term poorer residents. Kirshner's protagonists include a West Coast property developer and another entrepreneur, from New Jersey, looking to settle and establish his own business. The plans of both are affected by the difficulty of obtaining financing to rehabilitate derelict properties and the red tape often involved in obtaining necessary permits and approvals.²⁴

In her epilogue, Kirshner summarizes her conclusions:

Bankruptcy . . . does not address the circumstances that overwhelm a city's budget. In the wake of bankruptcy cities have sought to maintain their newly balanced budgets by welcoming speculative property investment and enforcing fines and fees for civil infractions, avenues for raising revenues that have inflicted further harm on cities like Detroit and [its] residents. . . . Reduced spending has further limited public services and further reduced the capacity of those communities to contribute to their cities' reinventions.²⁵

The noted 1989 book *As We Forgive Our Debtors* presented results of an empirical study of consumer bankruptcies. Similar to *Broke*, it profiled several individuals in the study who had filed for bankruptcy, before turning to the statistical data and conclusions of the study. The individual profiles illustrated in detail that many debtors were driven into bankruptcy by circumstances out of their control.²⁶ In *Broke*, it is by focusing on individuals and relating their experiences over a year-long period in a "broke" and broken city that Kirshner complements her more abstract findings. And we as readers experience the results of Detroit's bankruptcy through the day-by-day events in the lives of these residents.

Broke does not offer solutions to the problems it highlights. It does, however, memorably inform the reader of the problems municipal residents can face even after their city's emergence from bankruptcy. The decision to tell the story of seven individual Detroiters of varied backgrounds makes this book a compelling read for general readers as well as those with more specific interests.

24 *Id.* at 208–11.

25 *Id.* at 260.

26 TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE, *AS WE FORGIVE OUR DEBTORS: BANKRUPTCY AND CONSUMER CREDIT IN AMERICA* 49-62 (1989).