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One in ten Americans have filed bankruptcy at some point during their adult lives. Contrary to the pronouncements of some politicians, these filings do not reflect a series of personal failures and should not be understood as failures of character. Indeed, most of the people who file bankruptcy struggle for years to pay their debts before turning to bankruptcy law and courts for help. And most of the people who file say that they felt shame upon filing. Instead, the bankruptcy filings of millions and millions of people reflect systematic policy choices over the past forty years that have left individuals to deal with life's risks by themselves, without a safety net.

In this post, I explain what we can learn about the social and economic problems that plague our society by paying greater attention to the people who file bankruptcy, and why, absent broader changes, we can expect consumer bankruptcy to remain integral to helping people survive in a society marked by racial, ethnic, and gender inequality and with increasing disparities in income and wealth.

Who Files Bankruptcy?

The precipitators of people's bankruptcy filings connect with the financial risks that have been loaded onto individuals during the past decades. Data from the Consumer Bankruptcy Project (CPB)—a long-running study of the people who file bankruptcy, of which I am a current co-investigator—show that the majority of people seek bankruptcy protection in the wake of medical problems, job losses, and divorce. This finding, first noted by Teresa A. Sullivan, Elizabeth Warren, and Jay Lawrence Westbrook in *The Fragile Middle Class*, has held constant for decades. That these events can send households into financial tailspins lays bare a society that does not care for its citizens. With few options to help them climb out of financial holes, some people turn to bankruptcy to handle the resulting insurmountable debts.

Building on this work, in our forthcoming article, *Portraits of Bankruptcy Filers*, my CBP co-investigators Robert Lawless and Deborah Thorne and I rely on data from consumer bankruptcy filings during the seven-year period between 2013 and 2019 to identify distinct groups of filers, pinpointing key problems that lead people to the bankruptcy system. We use a statistical technique that allows for the grouping of bankruptcy filers based on their cases' primary characteristics. The results of our analysis show that while some people's bankruptcies revolve around specific financial problems—such as addressing mortgages on their homes and loans secured by their cars, small business debts, tax debt, and debt collection attempts—other people end up in bankruptcy to cope with the general fallout of living in an unequal society. The most significant aspects of these bankruptcy cases are who the filers are—that is, demographics. These cases show more about the economic stressors and financial burdens on particular sub-sets of people in the United States than about any individuals' financial decisions.

Younger parents, particularly women, constitute a distinct group of bankruptcy filers. Single women make up almost forty percent of bankruptcy filers. In addition, a significant portion of married couples do not file jointly. Instead, one person files alone, and that person is much more likely to be a woman. Bankruptcy continues to be a women's issue.

These filings reflect the financial burdens faced by women. Women, and particularly Black women, earn less money than men and are more likely to have unstable employment. Women also face obstacles to finding affordable and reliable childcare. Women, and again particularly Black women, take out more in student loans. Partially because of their lower earning power and employment volatility, it takes women longer to pay back student loans. Collectively, this puts women, particularly Black women, in financially precarious situations.

In addition, Black households file bankruptcy at more than twice the rate they appear in the general population. Indeed, Black women, in particular, make up a distinct group of people who file bankruptcy. This disparity in bankruptcy filing rates connects with decades of research showing that Black Americans pay more for housing, cars, other goods, and credit. Black students also take on more student loans. As with women, higher expenses, higher debts, and challenges with employment create a higher probability that Black households will face money troubles severe enough to plunge them into a financial spiral that ends with filing bankruptcy.

Finally, over the past few decades, the percentage of Americans aged 65 or older filing bankruptcy has increased markedly. As Deborah Thorne, Robert Lawless, Katherine Porter, and I detailed in *Graying of U.S. Bankruptcy: Fallout From Life in a Risk Society*, since 1991, older Americans' rates of filing bankruptcy have more than doubled. The bankruptcy trend among older Americans is so robust that the broader trend of an aging population only explains a small portion of the change in the age of the people who file bankruptcy. The increase in elder bankruptcy filings coincides with a shrinking social safety net for older Americans. The risks associated with aging, such as reduced incomes and increased healthcare costs, have been off-loaded onto older individuals. As a result, people increasingly face financial collapse in their elder years and increasingly turn to bankruptcy for help because there are few other options.

Across bankruptcy filers, one consistent finding that my co-investigators and I have found is the lengths that people will go to try to pay their debts prior to filing. People report that they took on second jobs, sold property, asked their creditors for help, and cashed out retirement accounts. They also report going without necessities, including food, utilities, and physical, dental, and mental health care. For the people who file bankruptcy, their efforts, although significant, are insufficient in an economy and society that requires people to heavily fund their own healthcare and education while legislating a labor market in which many employees cannot make enough money to keep up with basic expenses, let alone save for unexpected expenses or for retirement.

Access to Consumer Bankruptcy

Against the backdrop of these systemic economic disparities, people will continue to look to bankruptcy to deal with severe financial issues. As such, bankruptcy law and courts form an important part of the social safety net. Although changes to bankruptcy law cannot materially address systemic racism, pay disparities, gaps in childcare and healthcare, the cost of education, and the economic effects of divorce, modernizing bankruptcy law can chip away at some disparities. Key changes to bankruptcy law include removing student loans and local government fines, such as parking tickets, from the list of debts that are not dischargeable in bankruptcy, increasing the amount of equity that people can retain in homes and cars, and revising how repossessed cars are returned to people once they file bankruptcy.

Changes to the bankruptcy process are equally necessary. At present, depending on the type (termed chapter) of bankruptcy filed, on average, it costs people about $1,300 or $3,800 to access bankruptcy. People must submit complex and often useless paperwork and complete a credit counseling course that has been condemned by bankruptcy practitioners and scholars as worthless. Reducing documentation should make it easier and less expensive to file. Relatedly, providing additional ways for people to pay their attorneys besides before the case is filed, as currently is required in some cases, would support people's ability to file timely and under the chapter that will better handle their financial problems. More drastically, but more significantly, altering the structure of consumer bankruptcy so that people file under one streamlined chapter will materially address access issues. Such a streamlined chapter has been proposed by Senator Elizabeth Warren and Congressman Jerrold Nadler in the Consumer Bankruptcy Reform Act of 2020.

Overall, at present, in an economy and society that fails to help people through many of life's challenges, the consumer bankruptcy system has become a key aspect of a ragged social safety net. On an individual-by-individual basis, assisting people with their bankruptcy filings, at a reduced cost, and thereby relieving them of the stress of crushing debts and financial problems, can improve lives.