Bethlehem Steelworkers - Accumulation by Dispossession through the Bankruptcy Courts

Jill A. Schennum
How Class Works 2012 conference
I recently completed a dissertation entitled *Bethlehem Steelworkers: Re-Shaping the Industrial Working Class*. In my ethnographic research I focused on the long trajectory of restructuring of the U.S. (and global) steel industry, and how it played itself out in the lives of one cohort of steelworkers (those hired in Bethlehem, PA from 1963-1979). Bethlehem Steel, for long the second largest steel company in the world, was a core part of the steel industry, itself a key industry in U.S. economic development. Bethlehem Steel’s flagship plant – the south Bethlehem steel works – stretched out for more than five miles along the Lehigh River, and Bethlehem Steel was headquartered in Bethlehem, dominating the economy and the landscape of a small city of 72,000 people. In my research, I examine the effects of displacement, downsizing, and deindustrialization at Bethlehem Steel’s south Bethlehem plant, and the movement of steelworkers into a re-juvenated, post-industrial labor market in the Lehigh Valley, PA. Within the plant, these processes played themselves out over twenty years -- through management-employee “team” initiatives; closing of shops, departments and divisions; and eventually the shutdown of the plant itself. It included early retirements and transfers of workers to other Bethlehem Steel plants in the northeast, and it resulted in Bethlehem Steel’s entry into the bankruptcy courts in 2001, the dumping of defined-benefit pensions onto the Pension Benefit and Guaranty Corporation, and the jettisoning of health care coverage for Bethlehem steelworkers. The Bethlehem Steel corporation was liquidated and bought by the International Steel group, as the company emerged from the other end of the bankruptcy process, which ISG then “turned over” for a large profit 1 ½ years later, selling to Mittal (now Arcelor Mittal, the largest steel company in the world). Bankruptcy managers, lawyers, financiers, and vulture investors made fortunes from the “business” of bankruptcy. Steelworkers, however,
emerged from bankruptcy without jobs, without health care, without retirement security, and with renegotiated concessionary contracts with the new steel company. These processes, involve both expanded reproduction (a reorganizing of the steel industry through introduction of new management regimes and new technologies to increase productivity and restore profitability) and what David Harvey calls accumulation by dispossession (mechanisms that dispossess workers and citizens of their assets, of their very means of social reproduction). In the steel industry, these two processes are intertwined, although under neoliberalism accumulation by dispossession has become increasingly important in the accumulation of capital (Harvey). I want to explore the role of the bankruptcy court and the bankruptcy process in processes of “accumulation by dispossession”—in which workers are dispossessed of hard-earned assets, assets which are transferred into the pockets of a small set of capitalists.

The steel industry in the U.S., and Bethlehem Steel in particular, was a trendsetter in establishing the benefits (later defined as “legacy costs”) of pensions and health care (in the National Labor Relations Board Inland Steel decision and the 1949 Steel Industry Board report). Steel, and Bethlehem Steel, subsequently (30 to 40 years later) became a trendsetter in the use of bankruptcy to jettison these health and pension obligations to workers, and to put pressure on unions for concessionary contracts. The steel industry was also the first big industry to use the bankruptcy courts strategically to eliminate these “legacy” obligations. In the 1980s, LTV Steel’s bankruptcy became the first large pension claim (of $2.2 billion) faced by the Pension Benefit and Guaranty Corporation (PBGC), and the negotiations around it led to changes in bankruptcy and pension laws and set important legal bankruptcy precedents (Hoerr 1988). Then, in 2001, Bethlehem Steel’s pension was the largest pension fund (at $4.3 billion) to have its pension obligations picked up by the PBGC. Bethlehem had been a center for the U.S. industrial revolution and for the development of the parameters of the “Fordist” social contract in the post war United States, including collectively-bargained benefits. And in the 1990s, it became a forerunner in applying neoliberal strategies of using the bankruptcy court to
eliminate workers’ benefits, to violently transfer assets from workers while simultaneously using the threat and pressure of bankruptcy to expand reproduction in the remaining steel mills.

Bethlehem Steel entered the bankruptcy court in 2001, with $3 billion in health care and $4.3 billion in pension obligations when the new CEO, Robert “Steve” Miller, filed for Chapter 11 bankruptcy. Workers expressed their disgust with Miller, the executive who Bethlehem Steel’s board brought in a week after 9/11 as a “fix it” expert. Miller had helped Chrysler attain a large federal bailout, had experience with bankruptcies, and was selected, ostensibly, to “turn around” Bethlehem Steel. Instead of turning Bethlehem Steel around, however, Steve Miller took advantage of the “shock” generated by the terrorist attacks of 9/11 to bring the steel company into the bankruptcy court, filing for bankruptcy within a few weeks. Many steelworkers today are highly critical of Miller’s role, and extremely cynical about Steve Miller, “Steve Miller? All he wanted to do was sell it [the company], that’s all he was here for the way I seen it,” and “He did nothing. He sold the place. Anybody could have done that.”

Bankruptcy was a great shock to many steelworkers. Although steelworkers had foreseen the eventual closing of the south Bethlehem plant (if not the timing nor abruptness of the final closing), steelworkers did not predict bankruptcy of the corporation. And even when Bethlehem Steel filed Chapter 11, many steelworkers still saw the bankruptcy process as a corporate restructuring, not as the end of the corporation. Even union officials, like Ed O’Brien, former President of the United Steelworkers local, did not predict the bankruptcy.

That is one thing that I could never foresee. I certainly, with many, saw the Bethlehem plant shutting down. As far as the company going in complete bankruptcy, even as it was headed that way and people were coming to me with concern about their pension and benefits...never, never, in my wildest thoughts did I ever think you would see that happen...Things could have been handled different if you knew you were on the edge of a bankruptcy...I never ever thought they’d go bankrupt. (O’Brien, Steelworkers Archives)

While workers were adept at “reading” the language of disinvestment in a plant, they were unable to “read” and to predict these legal strategies. The filing for bankruptcy, and the bankruptcy
process, including the court’s approval of the PBGC takeover of worker pensions and the termination of promised health care coverage, came as a sudden shock to steelworkers. Don Booth had just transferred to Bethlehem Steel’s Coatesville, PA plant. He had been there just two weeks, and went to the office to fill out his paperwork for the new job.

I’m talking to this lady, and she says ‘hurry up. I got to get you out of here. Bethlehem Steel just filed for bankruptcy and we have a meeting in an hour.’ My second week there! The first week, I could have gone back to Lehigh Heavy Forge. I’m thinking, I’m screwed. I’ll just go with the flow….Oh man, I didn’t see that coming at all…I just thought Bethlehem Steel would be there forever…I thought Bethlehem Steel was too big to fail.

As a result of the bankruptcy, Don wasn’t eligible for his pension, “I didn’t hit the rule of nothing.” Because no one had predicted the bankruptcy, he made many bad individual decisions – leaving an independent steel company to transfer back to Bethlehem Steel for his seniority and benefits. As a result, he spent a couple of years scrabbling to try to regain a steelwork job at Lehigh Heavy Forge.

Workers initially accepted Miller’s explanation that Chapter 11 bankruptcy would be a beneficial restructuring of the company, allowing it to survive. Workers report on a meeting Steve Miller had with steelworkers at Bethlehem Steel’s Sparrows Point, MD plant to assure them that he was there to save the company and restore profitability. Days later, the company filed for bankruptcy. Metaphors of both illness and death are used to represent corporate bankruptcy, and management used the medical metaphor with workers in describing bankruptcy. South Bethlehem transfer, steelworker Manny Vega, was still working at Bethlehem Steel’s Sparrows Point plant when Bethlehem Steel filed for bankruptcy. “We thought it was like [the company] going in the hospital. Go in, get fixed up, and come out. But they didn’t tell us you come out on the other side of the door, where they put you in a box [coffin].”

Steve Miller hoped to shed pension and health care obligations in the bankruptcy court, thereby making Bethlehem Steel an attractive purchase for Wilbur Ross’ International Steel Group. A purchase deal was worked out with Bethlehem Steel, the International Steel Group, and the United Steelworkers
in January, 2003 (after pensions had already been shed), pending the loss of retiree health care, as ISG was unwilling to purchase the company unless it successfully sloughed off all its large “legacy costs.” The bankruptcy court approved the ending of Bethlehem Steel’s healthcare obligations in March, 2003, thereby clinching the sale. The loss of health care, while an anticipated boost to the managers, financiers, and lawyers “handling” the bankruptcy, as well as to the buyer, Wilbur Ross’ ISG, came as a crushing blow and enormous loss to workers. CEO Steve Miller, however, remains an enthusiastic supporter of the bankruptcy process, saying in 2009 “it’s a great time to be finishing up bankruptcy...you’re able to make hard choices on restructuring...you emerge...with much leaner operating costs.” The Bethlehem Steel of March, 2003 was much leaner, rid of what were described as onerous legacy costs. “Freed from these burdens” (Miller 2008) of pension and health care obligations, the corporation was an attractive candidate for purchase by Wilbur Ross’ International Steel Group. This shedding of benefits is an egregious example of accumulation by dispossession, a massive transfer of wealth from working people to CEO’s/financiers. While academics often describe home ownership as workers’ major savings, labor activist Gregg Shotwell (2012) points out that pension and health care are “our life savings.” He describes these benefits as “labor’s accumulated wealth.” Lawyer Thomas Geoghegan argues that this slashing of pension and health care benefits “did more than any wage cut to increase income inequality in the U.S.” This resulted in an enormous transfer of wealth, an increased impoverishment of working Americans, and an increasing reliance on debt for those working and middle class Americans who lost their job, their pension, and their health coverage (2007:129).

Bankruptcy had very different meanings for steelworkers than it did for the bankruptcy “experts.” By the time Bethlehem Steel entered the bankruptcy court, “turnaround” had changed in meaning in the U.S. In 1989, books like Turnaround: Avoid Bankruptcy and Revitalize Your Company, gave corporate executives advice on steering clear of what was highly stigmatized -- bankruptcy (Delaney 1999). But by the time Steve Miller wrote his autobiography in 2008 entitled The Turnaround
Kid: What I Learned Rescuing America’s Most Troubled Companies, he touted his own role in bringing Bethlehem Steel and Delphi into bankruptcy, defining this as a creative “turnaround” strategy. Today, “turnaround” no longer refers to keeping the corporation out of bankruptcy court, but of intentionally going into bankruptcy court as a way to strategically restructure the corporation through gutting union contracts, dumping “legacy” commitments, and protecting the corporation from civil claims and lawsuits. Miller himself described bankruptcy as “a growth industry” (Reutter 2006), it is a business plan and described today in the media as a business in itself, and Miller represents his role overseeing Bethlehem Steel’s bankruptcy and sale as successfully turning around the American steel industry, saying “I had also contributed, along with Wilbur Ross and Leo Gerard and many others, to the transformation and preservation of the American steel industry” (Miller 2008:199). In Miller’s formula, getting rid of the health care, pensions, workers, and many of the work rules written into contracts results in a lean and mean steel industry that can successfully compete internationally. For Miller the use of the bankruptcy courts to restructure the industry was “a success story” in which “we may even have set an example” for other businesses (Miller 2008:199). And, indeed, the same players, Steve Miller, Wilbur Ross, and Citigroup moved on to the auto industry when Miller took Delphi, GM’s “calved off” auto parts company, into bankruptcy.

For workers, however, bankruptcy was not seen as the same “success” story. Workers found themselves without jobs (as ISG “streamlined” their work force), with cuts in pension plans, and without health care coverage. Although the PGBBC did pick up workers’ pensions, most retired steelworkers experienced pension cuts. These reductions affected many of the steelworkers I interviewed, and could amount to a monetary loss of as much as 40 to 50% in monthly pension payments (depending on variables such as age). Matt Nichols, for example, worked as a millwright in the Bethlehem plant from 1965 until 1997 (32 years), when he was laid off. When he was initially laid off, with his pension, $400/month supplemental pension, and full health care
coverage, his family was fine, although he did continue working at the custodial job he had found. But when Bethlehem Steel claimed bankruptcy, he lost his healthcare (having to pay for healthcare at over $1,200/month), he lost his life insurance policy, and when the PBGC took over the pension plan, Matt lost his $400 supplemental pension. Overnight, the bankruptcy “cost me about $1800 a month.” To add insult to injury, Matt received a letter from the PBGC stating that they had recalculated his pension payments, and he would have to pay back extra monies. Thus far “they haven’t changed” his monthly pension payments, and he says if they do “the house, furniture, everything will go on the market. We’re making it now, that’s all we’re doing.” The arbitrary nature of this bureaucratic recalculation, coming months and sometimes years after receiving PBGC pension payments, reminds steelworkers of the insecurity of their pensions (and they worry about the financial health of the PBGC). This continues to undermine their “right” to the retirement monies they perceive as earned through a lifetime of hard work. Steelworkers who had been looking at a secure retirement based on a fair and just agreement between employer and employee that recognized the grueling nature of steel work, and the need for early retirement, found that agreement decimated in the bankruptcy court. Jose Rodriguez found that “Bethlehem Steel didn’t keep their end of the bargain.” Dave Baker expressed his sentiments about the end of retirement:

My friends, people that I knew, my neighbors, they’re retired, enjoying the good life. This guy was a teacher. I remember laughing at him one time, him telling me what he earned and I was earning better than twice that. And I said ‘why would you do that, why would you earn that kind of money and put up with the kids and all the grief, why would you do that?’ Well, he’s laughing all the way to the bank now. So, those guys are retired, and guys like me are all starting over somehow.

Many workers were propelled back into the labor market to look for work to supplement reduced or eliminated pensions and to pay for health care benefits. In my research, I explore the kinds of work--often in downgraded manufacturing or low wage service sector jobs--that workers found after steel, mostly at low wages, with poor benefits, and very insecure.
Workers were also bitter and angry over what they saw as the unjust contemporary “rule of law” in the bankruptcy process—the support of the state for unjust and unfair rules. While financiers of bankruptcy are awarded “debtor in possession” status, and courts award top managers special “incentive” pay (and we are talking about millions of dollars here), workers are considered “unsecured creditors” who are last in line for payment. Steelworkers like Tom Jensen question the bankruptcy court’s approval of large salaries for upper managers who oversaw the bankruptcy process, “the bankruptcy judge says they need these qualified people to have an ‘orderly shut down.’ Give me a break!” In addition, labor contracts forged through collective bargaining can be changed or eliminated in the bankruptcy court. After a short period of good faith bargaining, “management can petition the bankruptcy court to implement a labor agreement unilaterally” (Reutter 2006:2). Many ex-steelworkers are highly critical of the legal system institutionalized in the bankruptcy court, in which the laws of the court trump labor laws protecting the collectively-bargained contract. Louis Moran, a worker who lost about 40% of his pension and all of his healthcare coverage in Bethlehem Steel’s bankruptcy, says people would say “you have a contract and you’re in good shape.” But when a judge says “this is what you’re going to do” you can tear up that contract right there...once it goes to bankruptcy court the judge controls it. It doesn’t matter if the employee has been working there for forty years. They pay the creditor of six months first. It is supposed to be guaranteed. This is a contract. But this contract is not the same thing. People are treated differently.

The agreement of the “debtor in possession” loan is a different contract than the contract with the union. It is a contract that is prioritized and honored by the bankruptcy court. Workers that had entered the mill in the 1960s and 70s with laws that protected their collectively bargained contract, found themselves abandoned and betrayed by their country’s legal system.

Conclusions

In conclusion, I would first argue that it continues to be crucially important to pay attention to the ‘organic relation’ between processes of expanded reproduction and accumulation by dispossession
in the shaping of the steel industry, steel work and workers, and steel communities. Even as violent, state-supported processes of dispossession use bankruptcy laws and bankruptcy judges to transfer assets, the very real threat of this violent dispossession results in expanded reproduction—a steel industry that is highly productive and efficient, with a small number of workers. In Bethlehem, that is exemplified by the one nuclear forging facility, Lehigh Heavy Forge, that continues to operate successfully on the south Bethlehem site. Lehigh Heavy Forge exemplifies the U.S. integrated steel industry today— a small (less than 200 vs. the 800 in this division under Bethlehem Steel), highly skilled work force accepted concessionary contracts with changed work rules, reduced job classifications (multiskilled positions), and more “flexible” work. Productivity is high, and profit sharing has been lucrative for this group of USW workers, but it is a much smaller, whiter, and more male group of workers.

Second, the union was not very effective at combatting accumulation by dispossession. Union strategies of “partnerships” with management to preserve jobs produced concessionary contracts, failed to save the Bethlehem plant, and often divided work forces, pitting one steel plant against another, more senior retirees vs. those still working, and new “tier 2” workers against those who are more senior. Unions need to be more inclusive, they need to build connections and alliances outside the workplace, and they need to consider more radical/aggressive rank-and-file actions.

Third, there are rich opportunities for linkages and connections between different struggles against processes of accumulation by dispossession. All working Americans are confronted with the results of attack on and erosion of our health care and retirement protections. These broad issues connect union activism with social movements that coalesce outside the work place, movements like Occupy Wall Street. Why, for example, is “debt” and “bankruptcy” understood so differently for corporations than for individuals? After all, Occupy Wall Street’s protests ring true to so many young
people who are crushed under burdens of student loan debt, that they, unlike corporations like Bethlehem Steel, are not legally allowed to “rinse off” in the bankruptcy courts. We need to point to these very different moralities of “debt,” how capitalist elites propagate these, and how they are supported by the state. There are fruitful avenues for building connections between steelworkers, ex-steelworkers, college students burdened by debt, and a very broad and increasingly insecure U.S. working class.
References

Delaney, Kevin J.

Geoghegan, Thomas

Harvey, David
2012 *Rebel Cities: From the Right to the City to the Urban Revolution.* London: Verso.

Miller, Steve.

Reutter, Mark

Shotwell, Gregg