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Michael Robert Marrus. *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s.* George Mosse Series. Madison: University of Wisconsin Press, 2009. xviii + 196 pp. $29.95 (paper), ISBN 978-0-299-23404-1; ISBN 978-0-299-23403-4.

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Justice for Some: Holocaust Restitution Campaigns

Michael Marrus's *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s* is an impressive and concise analysis of the legal maneuvering involved in the attempt to provide some kind of justice to survivors of the Holocaust. Marrus gave himself several daunting tasks in this research. He first wanted to understand why the restitution campaign occurred, including in what countries and at what periods in time. In order to accomplish these goals, he set out to examine a variety of legal cases, where he hoped to find meaning in the machinations of lawyers and politicians, to analyze the concept of justice for Holocaust survivors, and to determine the relationship between history and law. He succeeds. Marrus demonstrates an impressive knowledge of the secondary literature on the restitution campaigns, as well as the meaning of justice, and he mobilizes an array of primary sources, particularly the statements of those involved in the trials: lawyers, politicians, judges, and survivors.

Marrus first examines the court cases of the 1990s, focusing on the cases against Swiss banks that profited from the murder of European Jews, suits against German companies that profited from the slave labor of Jews and non-Jews, and suits against insurance companies that had insured Jews killed by the Nazi regime. He points out that over 80 percent of those lodging claims against German companies accused of exploiting slave labor were non-Jews, a discovery that pointed to the wide nature and targets of Nazi persecution. Marrus exposes the process of acquiring plaintiffs, bringing charges, and negotiating settlements, a process which at points turns unseemly. Politics and politicians had an active role in these legal proceedings, and the cases were frequently settled out of court. These cases thus provided little legal precedent, and exacerbated questions about the kind of justice meted out during this campaign. Money could not assuage the suffering of millions, and thousands of those who lost money or were forced to work as slave laborers died before they could receive compensation. This combination of factors led Marrus to conclude compellingly that there was no justice for the victims of the Nazi regime.

Marrus also explains that this campaign of restitution could only have occurred in the United States as an example of American exceptionalism that Marrus calls "a particular moment in the American legal tradition" (p. 28). That is, the United States was the most logical venue for the campaign because of its proclivity for "high-stakes, class-action litigation" (p. 25). However, this same American legal system often left European defendants both surprised by the nature of American law, and at a disadvantage in countering the civil suits. Moreover, the majority of cases were, problematically, settled out of court. The lack of official judicial decisions about these restitution cases resulted in an absence of legal precedents for later cases, but also, arguably, a lack of justice–decisions were made through negotiations, through pressure, rather than on the "merits of the case" (p. 32). Despite the fact that out-of-court settlements were often in favor of the defendants, the reader is left to wonder whether such negotiations really resulted in justice, or only in payment negotiated through the "aggressive posture of the litigators" (p. 28).

In his second chapter, Marrus examines the court cases involving attempts to recover pieces of art lost during the war. He links the theft of art, of culture, to the overall persecution of Jews by the Nazis, arguing "the particular zeal with which the Nazis sought to strip Jews of their artwork is increasingly seen as deriving from the same impulse as the Holocaust itself; it was part of 'a systematic plan to rob [the Jews] of their lives, their culture, and their identity"' (p. 40). Marrus should have pointed

out at this juncture that the theft of art applied only to a few cases: the majority of Jews persecuted were not wealthy, and their belongings and evidence of their culture can never be recovered. To call the for the return of stolen art as an important factor in the campaign is to elide the differences between various populations of Jews targeted by the Nazi regime. Marrus does mention this point, but only in his conclusion. Moreover, it is not clear that ownership of pieces of art reflects a distinctly Jewish culture; often, the Jews Marrus discusses collected a wide variety of art, and unless the mere act of collecting is to be considered a reflection of Jewish culture, which as made clear above it was not, then it is not clear that stealing the art of Jews targeted for extermination is that closely related to the elimination of Jewish culture. Given the focus on a non-representative group of Jews, those wealthy enough to own art, combined with the fact that the restitution payments could not be made to all those who suffered, perhaps Marrus's book would be better titled *A Measure of Justice for Some* rather than *Some Measure of Justice*.

The recovery of art appropriated by the Nazis was a complex problem, as provenance was often in doubt, and often individuals had bought the art in good faith. This complexity is reflected in the legal decisions of the court. Contrary to the suits against Swiss banks, German corporations, and insurance companies, the court did not regularly rule in favor of those attempting to recover lost art. It is in this chapter that Marrus first points to the difference between questions of legality and history, arguing that "efforts to return Holocaust victims' art to their proper owners may be sorted out in legal terms, but often leave the larger historical and moral questions unaddressed" (p. 45).

Marrus picks up this question of history in his next chapter, in which he attempts to place the campaign of restitution into historical context. Although there was restitution before the 1990s, there was no explosion of attempts to provide justice to the Jews as there was at the end of the century. According to Marrus, the most important catalyst for this campaign of restitution was the end of the Cold War. The end of the Cold War "cleared the path to American litigation" (p. 76) and also allowed discussion of the events of World War II, which had long been suppressed by the "global conflict of East and West" (p. 76). Not only could conversation about the Holocaust now take place, but the fall of communism was accompanied by an opening of archives, which only provided more information about the actions of the Nazis in the East. Once begun, restoration efforts "snowballed" (p. 80), sped along by an American legal culture which facilitated aggressive civil litigation on behalf of numerous plaintiffs.

The meaning of the restitution campaign for history and historians is the subject of Marrus's fourth chapter. Marrus argues that history demonstrates that the Nazi regime was based on theft, that it robbed from its victims, but history also shows us that it is difficult to determine who benefited from this robbery, who was unjustly enriched, and thus who should be responsible for restitution payments. Here Marrus highlights the discrepancy between history and law, and how "history can be misshapen to fit the idiom of the law" (p. 92). Occasionally, the relationship between the company being sued and the Third Reich was questionable. What matters to lawyers is whether the argument can be made successfully; what matters to historians is whether those sued actually profited from Nazi policy. As Marrus writes, "The law … gets the history wrong" (p. 103). This difference, when combined with the occasionally unseemly methods of negotiating settlements again causes doubt about the nature of justice in these restitution campaigns.

Thankfully, Marrus's strong conclusion simultaneously acknowledges the problems associated with the restoration campaign, and rescues the idea of justice for victims of Nazi persecution. First, the restitution campaign "provided a means to stimulate public interest and amplify concerns about persisting historic wrongs" (p. 119), a process which is "continuous" (p. 119). Second, Marrus demonstrates that in some ways, restitution is about the money, a point of contention throughout the text. That is, could the suffering of those persecuted by the Nazis ever be assuaged with money? In the case of slave labor, for instance, "the conditions under which they worked were not only inhuman, they were *unpaid* [emphasis in the original]," which implicitly renders fiscal compensation a proper restitution (p. 120). Lastly, the restitution campaign created a space wherein the voices of victims could be heard, and moreover had to be heard, and their suffering acknowledged. This space allowed survivors to "create and solidify a collective understanding, sometimes referred to as the history or memory of terrible events that happened to them" (p. 129), and this, to survivors, is justice: the acknowledgement of their suffering, the "remembrance of those who did not survive" (p. 130), and even a sort of honoring of their experience. Marrus writes: "justice seeking through restitution is part of an often quixotic attempt to restore honor and respect," an attempt that was not completely successful. After all, these victims "could not undo what has happened, nor be entirely confident that their catastrophe has been fully understood or absorbed into peo-

ple's consciousness, nor accept that the restitution of the 1990s was anything more than some measure of justice" (p. 132).

Marrus has provided a concise, thought-provoking, and readable book on the issues surrounding restitution for Holocaust-era suffering. Although some interpretations of persecution of select Jews is problematic, this aspect of the campaign of restitution played a significant role in legal and fiscal decisions. The true strengths of the book are those cases that demonstrate the amount of political and legal maneuvering involved in the campaign, and its meaning for those involved. This book is a strong contribution to literature on reparations. More important is Marrus's analysis of the relationship between history and law, and the meaning of justice for those who survived Nazi persecution.

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