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Jason Scott Palmer, *Reparations in Domestic and International Mass Claims Processes: Justice and Money*, Edward Elgar Publishing, Cheltenham: 2023, pp. 200

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Jason Scott Palmer published his book *Reparations in Domestic and International Mass Claims Processes: Justice and Money* in 2023, a year that witnessed at least two conflicts that generated damage, loss and injury requiring reparations: the continuation of Russia's aggression against Ukraine and yet another instalment (another stage) of the Israeli–Palestinian conflict. But it was also a year in which the Register of Damage for Ukraine was established as the first component of a new comprehensive compensation mechanism designed to deal with mass claims resulting from violations of laws committed by Russia. Thus, as Lucy Reed – who became a member of the Board of the Register – noted in her review of the book, it is very timely and “will be more useful than even Professor Palmer could have predicted.”

Chapter 1 of the book introduces in general the concept of mass claims processes, both domestically in the United States and internationally. From a national perspective, it briefly presents the development of claims actions and mass actions through the Class Action Fairness Act and multidistrict litigation. It also presents the main assumptions of international mechanisms in which mass claims are involved. As a general introduction, the chapter points out the basic difference between national and international mechanisms: mass claims are a formal litigation tool that provides recourse for losses suffered by large groups of individuals who might be unable to recover damages on their own, whilst international mass claims processes are a substitute for judicial or other dispute resolution, often in the interest of promoting international peace and stability.

Chapters 2 to 5 explore in detail the US practice in judicial and extrajudicial mass claims processes. Chapter 2 explains in detail the history and development of class actions suits, stressing the limitations that affect their availability and utility.

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The Author concludes that the class action lawsuit has not always been used in cases for which it was best suited, paving the way to look beyond the class action to potential extrajudicial mass claims compensation regimes. Two such regimes are discussed in the subsequent chapters.

Chapter 3 is devoted to the Deepwater Horizon Gulf oil spill – thus BP oil spill victims and the legal solutions provided to them. Chapter 4 discusses the 9/11 Compensation Fund, created by Congress as an extrajudicial administrative process to counter thousands of potential lawsuits against the airline industry. Whilst the mechanism is generally perceived as successful, it cannot be treated as a precedent due to certain factors: its unique funding (provided by the US government), the fact that the harm done to individuals was inflicted by terrorist attacks and the underlying political and public pressure to protect the airline industry.

Chapters 5 and 6 present how domestic and international mechanisms can intertwine. They simultaneously discuss the proceedings and settlement agreement concluded in *In re Holocaust Victim Assets Litigation*, a class action suit initiated before the US courts to recover assets of Holocaust victims hidden and denied by Swiss banks, and the creation of the first Claims Resolution Tribunal for Dormant Accounts in Switzerland, being established through an agreement between the World Jewish Restitution Organisation and the World Jewish Congress on one side and the Swiss Bankers Association on the other (CRT). The chapters explain the diverse nature of the bodies established at the international level to deal with claims to dormant bank accounts. They clearly indicate the difference between CRT-I, which was designed as an international arbitration tribunal, and CRT-II, which fulfilled administrative tasks on account of the US district court overseeing the class action settlement reached in domestic proceedings.

Chapter 7 analyses the extrajudicial international mass claims processes of the United Nations Compensation Commission (UNCC), focussing on that body's introduction of an innovative approach to claims processing.

The final chapter of the book assesses the effectiveness and efficiency of these mechanisms and funding implications for future mass claims processes in the Israel – Palestine and Russia – Ukraine conflicts. It replies to the central query of the book: whether the reparation provided by domestic and international mass claims processes achieve the goal of providing adequate, just and effective compensation by presenting some general conclusions. The Author stresses the impact of providing funds for reparations on the effectiveness of the entire compensation programme and the need to ensure that claimants receive their awarded compensation in a just and timely manner.

The main advantage of the book is that it comprehensively explains the creation and functioning of mass claims processing. It is manifested on several levels. Firstly,

it presents mechanisms that are entirely national, international or hybrid in nature. It also shows the relationships that can exist between the various mechanisms. These relationships can be complicated and multi-layered. Therefore, although at first glance it might seem that the reference in the book's title to both domestic and international mechanisms is over the top – because a smaller portion of the book is devoted to international mechanisms – the title is not misleading. Secondly, the book does an excellent job of explaining the origins and forms of the various mechanisms. For a reader from outside the US legal culture, it is particularly interesting to be introduced to issues based on the US legal system, such as mass claims in the form of modern class action and multidistrict litigation, and their effectiveness for large groups of people.

The book is also comprehensive in the sense that it shows how individual claims have become the motivation for political actions that lead to an institution of national and/or international proceedings. The Author thoroughly describes the political and social circumstances in the country, the often initially divergent interests of those who would receive the benefit or the lack of real will to find a solution on the part of those who are ultimately obliged to bear the cost of compensation. These clashing attitudes and expectations were particularly well described in the case of dormant Swiss bank accounts. Likewise, the case of dormant accounts illustrates well the need to exert appropriate pressure on those responsible for causing the damage, since one-sided reparation efforts can often prove ineffective without external pressure and the oversight of an impartial arbiter. The solution to the dormant account issue is also a very good example of the necessary role of political, diplomatic and media pressure applied to the Swiss government and Swiss banks. But this case also illustrates very well that whilst the moral reckoning was rewarding to the individuals, the programme would not have been successful without the ability of Swiss banks to finance reparations.

The book not only delves into domestic and international mechanisms, but more importantly, it illustrates what challenges these mechanisms face when dealing with mass claims. The scale of the claims makes these challenges quite similar. Two of them are treated in particular depth in the book: evidentiary issues and innovative approaches to organising mass claims.

Evidentiary issues have been a challenge for almost all the mechanisms presented in the book. The analysis and discussion of how the evidentiary problems have been overcome provides extremely valuable material for study. This is because evidentiary problems arise not only from the mass nature of the complaints, but also often from the fact that the mechanisms that are invoked involve situations that occurred in the distant past.

This problem is brilliantly illustrated by the example of CRT-II. The tribunal applied a series of presumptions that had been ordered and approved by a US Dis-

strict Court and were then codified in the rules of procedures, introducing certain minimum standards of admissibility based on whether the claimant presented any information that provided a “reasoned and satisfactory basis for further examination of the claim”. It is interesting to note that the domestic court justified the use of these presumptions by the need to fill in the evidentiary gaps and in view of the banks’ destruction of records and files of the accounts. Also, the UNCC established a minimal evidentiary threshold. This is a path that can certainly be followed in other situations, especially in situations of compensation mechanisms created after armed conflicts, where claimants may naturally encounter difficulties in gathering evidence.

The book also shows how these mechanisms resorted to new technologies, which seems obvious because of the mass complaints. CRT-II used the computerised matching of account holders to claimants. In turn, the UNCC not only used the matching techniques, but also introduced computerised statistical sampling techniques for verification. The commissioners adjudicating the claims entered this “unchartered territory” for this mass claims process, bearing in mind that the traditional method of individualised adjudication would certainly have caused significant delays due to the number of cases.

In the book’s concluding chapter, the Author considers the possibility of creating compensation mechanisms for the Israeli–Palestinian conflict and compensating for the losses caused by Russia as a consequence of its aggression against Ukraine. However, these considerations, despite being quite detailed, overlook the most important aspect that distinguishes these situations from examples of mechanisms operating in the past: the fact that one of the parties to the conflict (Israel/Russia) is highly unlikely to agree to such a mechanism.

Consideration of this circumstance should be the starting point for further deliberations. Instead, the Author implicitly assumes that an agreement has been reached between Ukraine and Russia, despite the difficulty of imagining – even when the book was being written – that Russia would admit its international legal responsibility for the damage caused by its unlawful aggression against Ukraine. The Author, perhaps intentionally, avoids discussing the legal basis for the future mechanism, although it is one of the most important and problematic issues. Given the Author’s extensive knowledge, it would be interesting to learn his opinion as to whether it is possible to create a compensation mechanism without Russia’s consent, and if so, what kind of international decision could constitute a legal basis for the mechanism. Getting to know his opinion, based on the conclusions he drew from the functioning of previous mechanisms, would be consistent with his observation already made in the first chapter of the book, that “the willingness of states to submit to treaties, international agreements, or other international instrumentalities in resolving the disputes between them is the *sine qua non* for the

existence of most international mass claims processes” (emphasis added). To ponder future compensation mechanisms without attempting to elucidate the legal basis for their operation certainly leaves one feeling unsatisfied.

However, regardless of the above issues, which leave some sense of insufficiency, the book is definitely worth reading because it presents both a scientific dimension, as it describes selected national and international compensation mechanisms, and a practical dimension, as it gives an idea of how these mechanisms work. Last but not least, unlike many law books, which are not very approachable despite dealing with interesting matters, Jason Scott Palmer’s book simply reads well.