

Book Review

Rechtstrieb: Schulden und Vollstreckung im liberalen Kapitalismus 1800–1900.
By Mischa Suter. Konstanz: Konstanz University Press. 2016. 328 pp. €32.90 (paperback).

Can a defaulter who did not breach any formal legal liability yet be blamed on a moral level? Vice versa: Should someone who behaved impeccably but nevertheless got into financial trouble not be freed from any legal responsibility? Unfortunately, the English language does not provide for an equivalent to the polysemous German notion of ‘Schuld’, which entails economic, legal and moral implications all at once. Both questions, however, run through Mischa Suter’s fascinating book as constant guiding lines (see p. 61). Through the prism of the ‘Rechtstrieb’, the Swiss notion for the foreclosure of debts, the author convincingly demonstrates that ‘capitalism’—even in its liberal heydays—has always been an ‘uneven’ (p. 25) phenomenon, which did never follow a single monocausal logic. In this respect, the study also contributes to a new consensus, which has emerged in recent years, tending to blur the supposed dividing line between ‘pre-modern’ and ‘modern’ economies. The book, result of a dissertation at the University of Zurich in 2014, concentrates on daily practices, which were in use in the various cantons of nineteenth-century Switzerland to regulate financial liabilities among ordinary people.

Suter takes a rather heterodox approach: in order to avoid repeating a well-known success story of an ever more expanding liberal regime of economic regulation imposing itself throughout the course of the nineteenth century, he follows an inverse chronology. The book thus starts with the Federal Law on foreclosure and bankruptcy of 1889, which introduced an explicit legal distinction between two different forms of regulating debts. From then on, merchants, who had signed in the newly established trade register, had to follow standardized bankruptcy proceedings whereas non-merchants, that is common people, were supposed to fulfil their liabilities by the way of pawning. Starting from there, Suter then goes back in time and, throughout the different chapters of his study, digs deeper and deeper into the diversely interwoven relationships of ordinary debtors and their creditors. Thereby, the empirical analysis particularly focuses on processes of knowledge building and ‘subjectivization’.

The next chapter thus takes a closer look on the production of legal knowledge on a local level. At stake was the question whether financial failure in a particular case was the result of moral guilt or could be exculpated by extraordinary circumstances, which was at the heart of many foreclosure proceedings. Courts were able to answer only by relying on information about the socio-cultural context, which, in turn, was often provided by local authorities. At the same time, due to an expanding number of failures, courts tended to standardize foreclosure procedures. In contrast, the resulting legal categories always remained very hybrid entities.

Chapter three then provides an ‘anthropology of debt’ as a ‘theoretical bridge’ to the following case studies, relying extensively on Marcel Mauss and his famous study on ‘the gift’. According to these theoretical reflections, debt is considered first and foremost as a relational phenomenon, which amalgamates very diverse and often conflicting social relationships between persons and objects. The following chapter takes a closer look on the

particular ways in which stories of debt were framed by contemporary writers taking such different sources as diaries, fictive tales or political pamphlets. It becomes clear that the subject of the 'debtor' has always been formed in descriptions and attributions, in which mutual liabilities and expectations between social actors were articulated. Choosing such heterogeneous sources certainly makes sense if one wants to highlight the variety of forms in which problems of debt, litigation and guilt were articulated throughout the period, but the specific selection presented here unfortunately is not discussed in more detail.

Chapters five and six then set out to analyse the two most common mechanisms prevailing in nineteenth-century Switzerland to regulate debt: bankruptcy and pawning. Suter demonstrates that accounting for default is a crucial practice in liberal capitalism, which involves important 'epistemic functions' (p. 179) because the 'defaulter', as a distinct legal category, demands specific economic and legal treatments. Though defaulting involved the loss of civil rights, the author nevertheless offers numerous examples of defaulters who managed to keep up their social standing and even went on running their business. In another case study, chapter five takes a gender perspective by investigating the place of married women's dowries in bankruptcy proceedings. Since a woman's dowry often had to be treated with priority compared to other creditors' claims, women could become crucial actors in litigations. At the same time, however, women were not treated as official creditors so that they were placed at the centre of a complex interplay between economic and family relationships. The case of women's dowries thus illustrates that modern capitalism did not completely dissolve household and professional life as two separate spheres (see p. 203).

The final chapter deals with the widespread use of pawning for regulating debts and, in particular, with the things that were the objects in this process. While giving personal belongings as a pledge constituted a very common credit instrument for low-income households, authorities were worried to exclude those things which were supposed to be necessary to satisfy the basic needs of daily life, like one's bed, from being held as a pledge. This latter practice corresponded to drawing a sort of poverty line; however, which objects should fall into this category always was a controversial issue.

In sum, Mischa Suter succeeds in drawing a very colourful and nuanced picture of nineteenth-century practices of foreclosure. The multiple references to specialized literature from neighbouring disciplines, especially from ethnography, anthropology, sociology and cultural studies, is impressive though sometimes these references come as a surprise and the analytical importance does not always become clear. Readers willing to engage with a distinct culturalistic vocabulary in which merchants are 'performatively created' by the trade register, things are 'animated' and persons are 'objectivized' will be more than rewarded with new insights into the history of debt. More simple-minded readers primarily looking for clear-cut explanations, however, will rather be disappointed. It is only in the concluding chapter that the author tries to summarize the broad lines of shifting practices in debt regulation in nineteenth-century Switzerland, in which moments of crises notably turn out to constitute an important driving force. This is, however, not a weakness of the book's general approach. Rather, it directly results from taking capitalism as an 'uneven' phenomenon. Accordingly, the answer to both questions raised at the beginning of the review is: it all depended on the very individual case!