

Book Review: Privilege and Punishment: How Race and Class Matter in Criminal Court by Matthew Clair

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Recommended Citation

Uneke, Okori () "Book Review: Privilege and Punishment: How Race and Class Matter in Criminal Court by Matthew Clair," *International Social Science Review*. Vol. 97 : Iss. 1 , Article 18.

Available at: <https://digitalcommons.northgeorgia.edu/issr/vol97/iss1/18>

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Matthew Clair. *Privilege and Punishment: How Race and Class Matter in Criminal Court*, Princeton, NJ: Princeton University Press, 2020. xv-320. Hardcover, \$29.95.

In *Privilege and Punishment*, Stanford sociologist Matthew Clair examines how class and racial inequalities are entrenched in the criminal legal system and reproduced through the attorney-client relationship. While criminal defendants come from all racial and economic backgrounds, their experience of punishment immensely differ. For the book project, Clair conducted extensive ethnographic work in the Boston court system, attended criminal hearings and interviewed defendants, defense lawyers, judges, police, and probation officers. Precisely, Clair interviewed eleven female and fifty-two male defendants for the study. This book highlights the enduring features of inequality in the criminal legal system. For instance, when disadvantaged defendants (poor and ethnic minorities) try to learn their legal rights and advocate for themselves, lawyers and judges often silence, coerce, and punish them. In contrast, privileged defendants (middle class), who have little or no knowledge of the criminal legal system, and are more likely to trust their defense attorneys, delegate authority to their lawyers, defer to judges, and are rewarded for their compliance. The takeaway is that attempts to exercise one's legal rights often backfire on the poor and ethnic minorities.

As Clair observes, outside the criminal legal system, the middle class often display a sense of entitlement by asking for accommodations to the rules, while the poor and working class tend to defer to institutional authorities, rarely making demands for accommodations or extra resources. This dynamic is reversed in the criminal legal system: While the privileged defer to their lawyers and court judges, the disadvantaged demand and seek accommodations through their attempts to exercise their legal rights and advocate for themselves. In four chapters, Clair, using qualitative methods, narrates the stories of ordinary people from various walks of life as they navigate the criminal courts alongside their lawyers. By analyzing their experiences, the

author provides a detailed understanding of the way privilege and inequality work in court interactions.

Chapter 1 (Different Paths to the Same Courts) focuses on how people from different racial and economic backgrounds become criminal defendants. The privileged and disadvantaged navigate different paths in the criminal legal system, and the different ways their behaviors are treated by police and court officials contribute to different perceptions of the system, including of their defense lawyers. As the author puts it, “People take one of two general paths to becoming a criminal defendant—a path shielded by privilege or one besieged by disadvantage. To be sure, nearly everyone, no matter their race or class position, experienced social alienation in adolescence.... the troubles that emerge from people’s social alienation in adolescence are seen and treated differently according to social status” (p. 61). Consequently, their different paths to the same court system elicit different outcomes: Privileged defendants expect second chances from legal officials; disadvantaged defendants expect to be penalized for their assertiveness.

Chapter 2 (Disadvantage and Withdrawal) examines in detail the implication of mistrust of defense attorneys and the court system for the disadvantaged. Poor and minority defendants expressed their mistrust through withdrawal, which was interpreted by lawyers and court officials as resistance. Defendants were reluctant to accept their lawyers’ legal expertise and instead worked to cultivate their own from their communities and through personal observations of court proceedings. In turn, defense attorneys sometimes withdrew from their most resistant clients, expressing frustration of their own or even spending less time on their cases. For brevity, withdrawal between defendants and their lawyers is expressed in their distance from one another, their lack of communication, and the lawyer’s own growing reluctant tolerance for their client’s whereabouts and well-being. Furthermore, Clair observed that feelings of mistrust toward

lawyers were common among disadvantaged defendants. As it were, the poorer the defendant, the more they were to be dissatisfied with their lawyer. While poor defendants have no alternative but to work with a lawyer assigned them by the court, middle-class defendants have the option of choosing and hiring their defense attorneys. This study clearly shows that “racial injustice today need not depend on blatant racism to thrive; rather, such injustice is perpetuated through the silencing and coercion of disadvantaged defendants” (p. 75).

Chapter 3 (Privilege and Delegation) describes the conditions in which privileged defendants defer to their lawyers. Clair put it succinctly: “Trust enabled privileged defendants and their lawyers to develop relationships characterized by delegation...Inexperience with the law is central” (p. 122). Often, privileged defendants who have had no prior arrests and have neither cultivated expertise of their own nor tried to understand how the criminal law works defer to their defense attorney’s professional judgment. Interview records between researcher and respondents were presented.

Chapter 4 (Punishing Withdrawal, Rewarding Delegation) discusses the outcomes for disadvantaged and privileged defendants, in terms of their withdrawal and delegation of responsibilities to their lawyers. On the one hand, the disadvantaged have had more experience with law enforcement, accumulated through constant police surveillance and routine encounters with law enforcement. Oftentimes, when they assert their legal rights or exhibit knowledge of the criminal legal system, their attempts backfire, with negative legal experiences. Contrastingly, privileged defenders rely on their lawyers, whom they trust to have their best interests at heart, either because they are paying for legal services or because lawyer and defendant share cultural commonalities, or both. As a result, privileged defendants are rewarded for deferring to their lawyers’ expertise and to the courts’ expectations.

Clair documented not only race and class differences in defendants' court experiences (inequality), but also documented social injustice. "This book demonstrated not only how the attorney-client relationship embodies inequality but also how differences in attorney-client interactions result in unfair consequences that allow the privileged to maintain certain advantages in their lives over their disadvantaged peers" (p. 182). *Privilege and Punishment* is well researched and well written. It offers an account of how race and class matter in the criminal courts. An important lesson of this book is that effective legal representation alone is no guarantee of justice. This book should be recommended reading for those interested in race, class, and the criminal legal system.

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