**Privilege and Punishment: How Race and Class Matter in Criminal Court. Princeton University Press, Princeton, NJ, 2020.**

By Matthew Clair

**Main thesis:**  Relational interactions in the court system (especially between the defendant and their lawyer) are the building blocks of institutional discrimination. Middle class whites and Blacks are more likely to trust and defer to their lawyers while the poor, and people of Color are more likely to distrust the court personnel, and resist or withdraw from court interactions.

Matthew Clair’s book *Privilege and Punishment* brings a unique perspective on how race and economic disparities interact in the US criminal justice system. Diving into the court system in the eleven municipal circuit courts around Boston, Clair gives us a front row seat to the courtroom dynamics and the personal interactions of the players, beginning from client-attorneys relationships, and extending beyond to other court actors. Rather than confirming that criminal courts try to discriminate against people based on race and color (such as disallowing jurors who are Black, and other explicit rules to the detriment of poor and people of color), Clair’s work combines human psychology and court roles and processes, to bring into relief how systemic racism in society more subtly plays out in the court process.

We all know that the US prison system is out of control and woefully inadequate in providing offender rehabilitation. The US has experienced mass incarceration since the 1970s War on Drugs, and expanded that to mass criminalization of behaviors and communities. Today there are over 2 million people in prisons, jails, and detention centers. Black inmates make up nearly 40% of the US prison population, while Black citizens only make up 13.40% of the total US population. The costs of imprisonment range from $25,000 to $45,000 a year per offender. This is all money that could be diverted to mental health and social services, a message that is part of the Black Lives Matter theme to defund the police.

Claire’s data are gathered from numerous interviews with over 220 defendants, defense attorneys and other members of the court. Only some of his key findings can be briefly described here. First, defendants’ differential race and class lead to highly divergent experiences with the law. Defendants from middle class communities where police interactions are infrequent and second chances routinely given are more likely to trust their lawyers and the court personnel, delegate and defer to their lawyer and the judge, and be rewarded with leniency due to their compliant behavior. On the other hand, poor and Black defendants grow up in routinely patrolled neighborhoods where conflictual police interactions are frequent. These defendants are more likely to know more about the criminal justice system (from negative personal experiences) than middle class citizens, and consequently, they are more cynical and untrusting. This distrust then clouds their relationship with their lawyers and their willingness to be compliant. And they are dealt with more harshly by judges and prosecutors who react to the defendants’ resistance or resignation without taking their personal circumstances of poverty, mental illness etc. into account.

Clair goes beyond documenting and explaining the current court system to suggest some possible routes for reform, and ways to integrate justice into processes that help heal and provide opportunities for growth rather than focus only on punishment and incarceration. Clair identifies relational interactions in the court system as the building blocks of institutional discrimination. He advises that reforms need to focus on three levels: 1) the attorney-client relationship, 2) reforms of how the court deals with and responds to attorney-client relationships, and 3) ways to reform or abolish institutional features of the criminal justice system so attorney-client relationships are not as central or required. Reforms in the third category might include restorative justice processes, in which defendants and their victims have one or more face-to-face encounters that allow personal interaction, apologies and forgiveness to occur, or community court models, where defendants can have more agency to speak and be involved than in traditional court processes. Judges who recognize the racial and class injustices of the legal system could bring up certain procedural rights of the defendant to allow discussion between the attorney and client that would present rights that might not have been discussed.

Clair’s work underscores some key themes of Buddhist beliefs and practice regarding social justice. We all make mistakes. We need to take responsibility for those mistakes and learn from them, to change our behavior and attitudes to be more compassionate and selfless. We are all due respect and have equal humanity. We should seek ways of interacting with each other that allow each of us to retain our self-respect, our voice and our agency regarding our behavior and the consequences from our behavior. We should use justice processes that promote understanding, forgiveness and restorative justice so that positive human personal connections are maintained, freeing the offender from guilt and demonization, and allowing the victim to forgive and heal. We are all connected to each other and to everything in our world. Our collective efforts are needed to help each other be the best that we can be, without prejudice for each other’s race, income, community background or personal history. Change is possible, and indeed, occurs every moment. Every moment is a new beginning, and can be a fresh start.