

Book Review: Nicole Gonzalez Van Cleve, *Cook County: Racism and Injustice in America's Largest Criminal Court*. Stanford: Stanford Law Books, 2016. ISBN: 9781503602786 (Paperback). 252 Pages. \$16.95.

Reviewed by Gary L. Grizzle¹

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Over the course of more than ten years, Nicole Gonzalez Van Cleve witnessed the day-to-day practices in and around the Leighton Criminal Court Building in Chicago, first as an undergraduate student doing ethnographic research and later as a graduate student clerking in the courthouse and subsequently directing a court-watching program for a local advocacy group. *Cook County: Racism and Injustice in America's Largest Criminal Court* is her account of those practices and their racial implications.

In her account of the practices of Cook County Criminal Court, Gonzalez Van Cleve draws upon field notes, interviews with courthouse denizens, and observations from trained court-watchers to depict an institutional culture that mandates a strong work ethic and commitment to upper-middle-class values. She goes on to note that anyone who fails to exhibit these qualities (be they judges, prosecutors, public defenders, or defendants) will be labelled a “mope” and suffer dire consequences for being so designated. In the case of courtroom professionals, those deemed to be mopes can expect to be ostracized, subverted, and deemed unworthy of further career advancement. In the case of defendants, those deemed to be mopes can expect to be corralled, humiliated, and disposed of with little regard for their futures or even their fundamental legal rights.

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The central theme of *Crook County* is that mope is a racialized concept in Cook County Criminal Court. That is, while all defendants are considered to be mopes – otherwise they wouldn't be before the court – in the case of black folks this label is ascribed to anyone who is not a courtroom professional: defendants, their family members and friends, and even college students working as court-watchers. White folks, on the other hand, are largely spared this ascription unless they are defendants and even then they can escape the label by “exhibiting an upper-middle-class demeanor” (65). In support of her characterization of mope as a racialized category Gonzalez Van Cleve describes harrowing incident after harrowing incident of the indiscriminant mistreatment of nonprofessional blacks by judges, prosecutors, and public defenders; oftentimes contrasting this mistreatment with the more civil treatment experienced by similarly situated whites.

To her credit, Gonzalez Van Cleve tempers her condemnation of the mope concept and its application in this setting with an understanding of its origins and functions. This concept has its origins, she contends, in the pressure to deal with a plethora of criminal cases, many of which are minor in nature, with limited resources. Within this context, Gonzalez Van Cleve regards the mope concept as functional in two senses. To begin with, this concept and the threat of it being applied to them serves to motivate courtroom professionals to work expeditiously to clear the court calendar by summarily disposing of minor cases (those involving mopes) so that they can devote their time to more serious cases (those involving “monsters”). In addition, this concept allows those professionals to summarily dispose of such cases without misgivings regarding the racial implications of their work: implications that are inescapable given the demographics of their clientele. After all, she notes, in their view they are practicing color-blind justice; it just so happens that most of the mopes they encounter are black. Hence, according to Gonzalez Van Cleve, the mope concept plays an integral role in the smooth running of Cook County Criminal Court and is therefore as contextually understandable as it is deplorable.

Crook County closes with a call to action. In this call, citizens are urged to serve on juries and to scrutinize court proceedings as concerned citizens; teachers are urged to take their students to court in order to educate them about the injustices occurring therein and to add an additional layer of scrutiny to the proceedings; and attorneys are urged to take pro bono cases and use their presence to disrupt the status quo by adding an element of professional scrutiny to the proceedings. Such actions, in her opinion, are essential for ensuring that our criminal justice

system lives up to the humane and egalitarian ideals upon which it is purportedly founded.

Crook County is often lauded as muckraking in its finest tradition, and justifiably so. However, it is far more than that. It is muckraking that not only exposes the shortcomings of our criminal justice system; but the shortcomings of the ways in which many scholars seek to understand racism in that system as well. The two most important examples of such exposure are as follows.

First, this work exposes the shortcoming of relying on quantitative analyses to explore racism in the criminal justice system. The problem with these analyses (which often indicate that race has little impact on outcomes) is, Gonzalez Van Cleve contends, that they fail to reveal how the criminal justice process is experienced by black defendants and their families and friends. That is, they fail to reveal the segregation, forced subservience, degradation, and gross violations of due process that are routinely experienced by these populations irrespective of outcomes. Her exposure to such abuses led Gonzalez Van Cleve to conclude that the treatment of black folks in Cook County Criminal Court constitutes a form of modern day lynching and given the myriad examples of public dressing-downs, mocking of names and vernaculars, and even souvenir collecting recounted in this book, few readers will find grounds for disagreement. Thus, I find her insistence on the importance of focusing on processes as well as outcomes to be a significant contribution to our understanding of racism in the criminal justice system and, no doubt, to our understanding of racism in other contexts as well.

Second, this work exposes the shortcoming of focusing on the individual as the source of racist practices in the criminal justice system; a focus epitomized by treatments of implicit racial bias and its impact on police officers, prosecutors, and judges. While there was certainly no shortage of implicit, and oftentimes explicit, racism at play in Cook County Criminal Court, Gonzalez Van Cleve demonstrates that it is possible to have racist practices without necessarily having racist actors. Specifically, she demonstrates that successful participation in the culture of this institution mandates that attorneys adhere to a code of conduct that has racial implications regardless of their private beliefs; beliefs that came across in interviews as quite progressive in many instances. As noted earlier, those who fail to adhere to this code can expect to be ostracized, subverted, and deemed unworthy of further career advancement which explains, in her view, how racist practices can be found in a setting in which “all the major leadership roles were filled by people of color” (57). Given her depiction of the pressure to conform to

institutional norms and the disparity she reveals between the private beliefs of many attorneys and their public complicity in the dispensing of racialized justice, few readers will find grounds for disagreement. Thus, I find her reminder of the importance of structural racism to be a significant and timely contribution to our understanding of racism in the criminal justice system and, once again, to our understanding of racism in other contexts as well.

As much as I find myself sharing in the appreciation of *Crook County: Racism and Injustice in America's Largest Criminal Court* as a treatment of racialized justice, I also find myself harboring concerns about two issues: its relative inattention to the role of class in Cook County Criminal Court and its suggestion that our existing criminal justice system can be reformed.

With regard to my first concern, despite the fact that Gonzalez Van Cleve posits early on that “there are two systems of justice in America: one for upper- and middle-class whites and another for the poor and people of color” (xiii) her focus is clearly on the impact of race on the goings-on in Cook County Criminal Court, hence the title of her book. While I have no objection to this focus, I do think that greater consideration of the role of class in those goings-on is warranted for two reasons.

First, greater attention to class might enhance our understanding of how the black professionals in Cook County Criminal Court (particularly the many in leadership positions) can be so readily complicit in the mistreatment of other black citizens. It could be that these courtroom professionals are simply practicing the same culturally prescribed color-blind racism as their white counterparts, as Gonzalez Van Cleve suggests on the few occasions that she addresses this issue: her focus being overwhelmingly on the whiteness of the perpetrators of injustice in this context. However, I suspect that there might be more to it than that. I suspect that the complicity of these professionals is also rooted, at least in part, in the disdain that upper- and middle-class blacks have long shown for underclass blacks. In keeping with Gonzalez Van Cleve's characterization of the practices of Cook County Criminal Court, the ugliest manifestation of such disdain would certainly be the nineteenth and early twentieth century lynchings of underclass blacks by more prosperous members of their communities documented by Beck and Tolnay (1997), Brundage (1993), Hill (2016), and Tolnay (1995). While these lynchings differed from lynchings of blacks by white vigilantes in that they were punitive rather than terroristic and therefore typically involved less community ritual and torture, they were lynchings

nonetheless: extrajudicial executions of citizens. Other notable manifestations of such disdain would include the exclusion of the interests of the black underclass from early civil rights movement agendas noted by Wilson (1978); the flight from inner cities by upper- and middle-class blacks once they gained access to suburban communities also noted by Wilson (1978); and the ongoing negative reactions of upper- and middle-class blacks to the presence of underclass blacks in and around their communities revealed in the ethnographies of Anderson (1999), Duck (2015), and Williams (2013). Given this history of disdain along with the class differences between the black courtroom professionals and the (overwhelmingly poor) black folks whose abuse they abet, I am convinced that the mope concept and its application in this setting are rooted in class as well as racial bigotry.

Second, greater attention to class might enhance our understanding of the similarities between the treatment of black defendants and their white counterparts who fail to exhibit upper-middle-class traits; treatment that is similar right down to the mocking of vernacular. It could be that whites perceived as being from the underclass are simply being “racialized” as Gonzalez Van Cleve suggests. However, once again I suspect that there might be more to it than that. I suspect that the treatment of these defendants is rooted, at least in part, in the disdain that upper- and middle-class people of all races have long shown for underclass whites. Again in keeping with Gonzalez Van Cleve’s characterization of the goings-on at Crook County Criminal Court, the ugliest manifestation of such disdain would be the nineteenth and early twentieth century lynchings of underclass whites (oftentimes for minor offenses) by more prosperous members of their communities documented by Brundage (1993), Hill (2016), and Tolnay (1995). While these lynchings also differed from lynchings of blacks by white vigilantes in that they were punitive rather than terroristic and therefore typically involved less community ritual and torture, they too were lynchings nonetheless. Other notable manifestations of such disdain would include the deliberate inclusion of poor whites among those disenfranchised following reconstruction as described by Pildes (2002); the willingness of suburban communities to accept racial but not class integration observed by Wilson (2009); the draconian reaction to the (predominantly poor white) methamphetamine epidemic taken to task by Harvard Law Review (2006); the demeaning epithets widely used to describe underclass whites recounted by hooks (2000); and the ongoing belittlement of underclass whites in the media noted by both Hochschild (2018) and hooks (2000). Given this history of disdain and the class

disparities between the courtroom professionals and the white defendants they are wont to abuse, I am further convinced that the mope concept and its application in this setting are rooted in class as well as racial bigotry.

The foregoing is not meant to disparage Gonzalez Van Cleve's treatment of the role of race in Cook County Criminal Court. In fact, I find her depiction of the racist element in the goings-on in this setting beyond questioning and applaud her for calling these goings-on by their proper name: modern day lynchings. Rather, the foregoing is simply meant to point out that while the mopes being lynched in this venue might or might not share racial designations, they do share underclass status in the eyes of courtroom professionals and to suggest that their mistreatment stems at least in part from our history of class bigotry. And while it is important to note that the mope label is more readily and tenaciously applied to black folks than to white folks in Cook County Criminal Court, this does not negate the importance of class: it simply confirms the importance of explicitly exploring the intersection of race and class. The absence of such exploration leaves me mildly concerned that Gonzalez Van Cleve missed an opportunity to demonstrate the need for intersectional analysis in our explorations of race.

With regard to my second concern, I am not as certain as I once was that our criminal justice system can be reformed. In fact, through reading Gonzalez Van Cleve's account of the goings-on in Cook County Criminal Court I acquired a new appreciation for Bianchi's (2017) call for the abolishment of our current criminal justice system and its replacement with one based on reparative justice. I did so because Gonzalez Van Cleve's account convinced me that he is correct when he depicts of our current system as one that wantonly and permanently stigmatizes those accused of violating criminal law while offering them no opportunity for redemption; provides victims of wrongdoing little opportunity to receive any form of meaningful compensation; and preys on our most disadvantaged populations. Thus, I am now all but convinced that a system like the one portrayed in this book with its immense retributive and discretionary power over the lives of others cannot be reformed and must be replaced with one in line with our reparative approach to civil law as Bianchi suggests. While Bianchi acknowledges that articulating the workings of a system based on reparative justice is still in its infancy, after reading *Cook County* I for one am about ready to join the conversation.

The preceding is not meant to entirely dismiss Gonzalez Van Cleve's recommendations for ameliorating the problems she identifies. In fact, I agree that increased scrutiny is likely our most expeditious path to

bringing about change in our existing criminal justice system. Rather, the preceding is simply meant to point out that increased scrutiny, even if it results in everyone being treated with dignity and respect for their rights, has daunting limitations in a system based on punitive justice. These limitations leave me disturbingly concerned that Gonzalez Van Cleve's call to action is inadequate for addressing the problems of a completely misguided criminal justice system.

While I find myself to be more attached to class as an explanatory variable and less optimistic about the possibility of reforming our current criminal justice system than Gonzalez Van Cleve, this does nothing to lessen my admiration for this fine scholarly work. Her vivid account of the contemporary precariousness of the rule of law and its link to our darker days of less covert lynchings is an invaluable contribution and should be greatly appreciated by the general public and academics alike. I hope that Gonzalez Van Cleve has the opportunity to continue mining the methodological, theoretical, and practical implications of her unique and priceless data and I look forward to hearing more from her in the future.

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