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**Book Reviews**

Kathleen E. Hull, Editor

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*What Blood Won't Tell: A History of Race on Trial in America.* By Ariela J. Gross. Cambridge, MA: Harvard University Press, 2008. 368 pp. \$29.95 cloth; \$18.95 paper.

Reviewed by Martha S. Jones, University of Michigan, Ann Arbor

In 2008, the myth of a “one-drop rule” in the United States proved its persistence. Commentators scrutinized Barack Obama, resorting to that slim analytic to wedge the presidential candidate’s pedigree into a box defined by race as blood quantum. It is no surprise perhaps to hear such a simplified analysis from political pundits. But the one-drop idea also continues to serve as shorthand for the history of racial determination in U.S. legal culture. In the twenty-first century, it shapes legal thinking about matters from affirmative action and tribal membership, to life expectancy in insurance claims.

Ariela Gross’s *What Blood Won't Tell* dispels the one-drop rule and other myths about the history of racial determination in the United States. In their place, Gross provides an ambitious and illuminating survey of “race on trial.” Readers learn how judges—along with juries, lawyers, and litigants—constructed ideas about race by way of a multifold and changing range of evidence. “Appearances, ancestry, performance, reputation, associations, science, national citizenship and cultural practice” intersected with assertions about blood to resolve high-stakes disputes for everyday people (p. 9). Claims to freedom, property, marriage, legitimacy, inheritance, citizenship, children’s education, and community standing variously turned on a court’s attempt to delineate races and fix identities. Gross’s nuanced reading of these proceedings reveals how race-making in U.S. legal culture was achieved through a series of tragic illogics that cannot be reduced to a one-dimensional truism.

Broad geographies of race organize *What Blood Won't Tell*, enabling Gross to provide both a sharply comparative and finely particularized analysis. Chapters 1 through 3 focus upon juridical race-making in the U.S. South. Courts distinguished between people with race (slaves and free black people) and those from nations (such as Native Americans). Decision makers relied as much upon

their common sense as they did upon science, with whiteness discerned through performances (of citizenship for men and virtue for women) and racial ambiguity leading courts to examine a litigant's past associations and ask "was someone who associated with 'negroes' a 'negro' himself?" (p. 78). Chapter 4 explores primarily North Carolina and Tennessee and what were sometimes termed the "little races," communities of mixed-race people that claimed to be variously Indians, free people of color, or whites. During the Jim Crow era, the Melungeons claimed Carthaginian or Portuguese origins, the Croatan or Lumbee self-defined as Native Americans, and many others lived ambiguous racial islands. What these groups shared was their efforts to claim citizenship through the rejection of blackness. Indian Territory after the promulgation of the Dawes Allotment Act of 1887 is the subject of Chapter 5. Race displaced nation, land was linked to blood quantum, and identities became more fixed than ever, while "black Indian" became an "impossible identity" (p. 141). Chapter 6 moves to Hawai'i, where European, U.S., and Japanese incursions led to distinctions between "Hawai'ians" and "foreigners." Twentieth-century immigrations from Asia and Europe and trials over citizenship and naturalization are the subject of Chapter 7. Most Europeans were "white on arrival," to borrow historian Tom Guglielmo's phrase (Guglielmo 2003). Ideas from the science of eugenics to cultural notions about criminality and sexuality left migrants from China, Japan, India, and the Philippines to be scrutinized for their suitability for naturalization. Few succeeded. Many Mexican Americans were citizens pursuant to the terms of the Treaty of Guadalupe Hidalgo, Gross explains in Chapter 8. Still, courts puzzled over how they were situated in a racial matrix. Understood as white and citizens, discrimination against Mexicans was couched in cultural rather than racial terms for most of the twentieth century.

The vivid elaboration of remarkable lives powerfully informs Gross's analysis. Stories of Alexina Morrison and Abby Guy, enslaved women said to be white; the racially ambiguous Bolton and Spencer clans of Tennessee and Kentucky, respectively; and immigrants Edith Labue from Sicily and George Dow from Syria all make evident the grave stakes in trials about race. A far-ranging geography of race-making is complemented by astute attention to trial court dynamics, an approach Gross pioneered in her first book, *Double Character* (Gross 2000). Litigants strategically deployed race, and courtrooms became scenes for understanding the power and the limits of social categories. On the one-drop rule, Gross is unequivocal. The idea of race as ancestry and blood percentage entered legal culture at a later moment, in the early twentieth century. And even when invoked, such a rule rarely decided a case. White juries were of a different mind, giving the

benefit of the doubt to white-appearing litigants who closely resembled them.

Gross boldly embraces the contemporary implications of her historically grounded study. Indeed, Gross demonstrates that race remains on trial in the United States. After centuries, the process continues in performances of whiteness and blackness in popular culture, de facto segregation of public education, circles of intimacy and sociability, contests over the status of Cherokee Freedmen, debates over sovereignty and self-determination in Hawai'i, the World War II-era internment of Japanese Americans, and the exclusion of Latinos from juries. *What Blood Won't Tell* equips researchers to confront these examples of racial formation in our midst. Neither law nor race is made from above, Gross urges. Instead, through confrontations in local courts and with administrative apparatuses race has been and continues to be made in the United States. Gross's final thought—that only through understanding race-making can one dismantle injustice—is both a well-argued conclusion and a high-aiming aspiration.

#### References

- Gross, Ariela J. (2000) *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom*. Princeton, NJ: Princeton Univ. Press.
- Guglielmo, Thomas A. (2003) *White on Arrival: Italians, Race, Color, and Power in Chicago, 1880–1945*. New York: Oxford Univ. Press.

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*Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity*. By J. Kēhaulani Kauanui. Durham, NC: Duke University Press, 2008. 264 pp. \$22.95 paper.

Reviewed by Nicholas Buchanan, Massachusetts Institute of Technology

In 1921, the Hawaiian Homes Commission Act (HHCA) defined a “‘native Hawaiian’ as a ‘descendant with at least one-half blood quantum of individuals inhabiting the Hawaiian Islands prior to 1778’” (p. 2). The HHCA set aside 200,000 acres of land and made parcels available to native Hawaiians for long-term leases. In *Hawaiian Blood*, J. Kēhaulani Kauanui examines the authoring of the HHCA, the historical origins of the one-half blood criterion, and its legacy for Hawaiian identity and sovereignty struggles.

As conceived and promoted by Hawaiian elites, the goal of the HHCA was to “rehabilitate” (p. 2) Hawaiians suffering from depopulation, poverty, and urbanization by returning them to the land. But because of opposition from the islands' large sugar