

Long economic cycles and the criminal justice system in the U.S.

DAVID E. BARLOW,¹ MELISSA HICKMAN BARLOW² and
THEODORE G. CHIRICOS³

¹ *University of Wisconsin-Milwaukee, Criminal Justice Component, P.O. Box 786, Milwaukee, WI 53201, USA;* ² *University of Wisconsin-Green Bay, USA;* ³ *Florida State University, USA*

Abstract. Long cycles in capitalist development have been utilized as an analytical tool for political economic theory¹ and to explain major shifts in the social structure within capitalist political economies.² However, the potential impact that these massive changes in the political economy have on the historical development of criminal justice institutions and policies is an area not addressed within the literature. This article explores the relationship between long cycles of capitalist development and the historical formation of criminal justice policy in the United States.

Political economy and criminal justice

That there is a relationship between economic conditions and criminal justice policy is well established in the literature. Georg Rusche³ observed in the 1930s that the political economy contributed significantly to the development of penal systems in various countries. According to Rusche, the political economic structure shapes the formation of criminal justice institutions and their operation. Specifically, he suggests that the conditions of the labor market and the standard of living greatly influence contemporary forms of corrections. Rusche broke from traditional criminal justice theory by suggesting that the societal response to criminal behavior is not a simple consequence of crime.

In relation to the United States criminal justice system, Rusche⁴ largely focused on the emergence and decline of hard labor as the primary mode of punishment. The historical investigations of Miller, Petchesky, Adamson, and Gardner support Rusche's ideas that confinement with hard labor was a very profitable enterprise in early 19th century America.⁵ Prison administrators and business people who utilized prison labor made a great deal of profit from confinement with hard labor. These investigations also suggest that convict labor was quite productive and played a major role in the growth of a new nation. The demise of confinement with hard labor in the latter part of the 19th

century is primarily attributed to declines in both its profitability⁶ and its effectiveness in preserving social order.⁷

Several empirical studies have found a significant correlation between unemployment and incarceration.⁸ The relationship between unemployment and incarceration is witnessed in studies which control for the crime rate,⁹ changes in the population,¹⁰ and the growth of non-criminal justice institutions, such as welfare caseloads and mental hospitalizations.¹¹ In addition, Melossi's research shows a significant relationship between the yearly change in per capita income and incarceration.¹² Myers and Sabol also provide support for the thesis that unemployment and incarceration are closely related; however, they report their findings to be sensitive to race and region.¹³ Although Galster and Scaturro's work found no relationship between unemployment and incarceration, they did find a significant inverse relationship between unemployment and unconditional releases.¹⁴ Hall et al. and Ratner and McMullan each connect criminal justice with economic conditions, within arguments that economic crises have led to hegemonic crises, the response to which has been the emergence of an "exceptional state" within capitalist political economies.¹⁵

Numerous authors, then, identify that a relationship exists between economic conditions and criminal justice. It is our contention that we will broaden our perspective on this relationship by investigating the history of criminal justice in the United States within the context of long cycles in capitalist development. Exploring criminal justice policy in relation to long cycles contributes both to the literature on criminal justice history and to political economic literature as well.

Long cycles of capitalist development

The historical development of world capitalism is characterized by political economists in a variety of ways. The view of capitalist development as a series of long international cycles of accelerating and decelerating economic growth holds that these long cycles are quantitatively and qualitatively different from the shorter and less traumatic business or industrial fluctuations, typically referred to as business cycles.¹⁶ Kondratieff explains that these are massive cycles, lasting a total of approximately fifty years each, and affecting all capitalist countries, industries, and intermediate cycles.¹⁷

According to Gordon,¹⁸ the long cycles of capitalism begin with an extended period of economic expansion, which is characterized by high profits, low unemployment, increasing investment, production, and consumption, and a generally positive business climate. These periods of expansion, though, are eventually followed by a prolonged phase of economic contraction and stagnation, characterized by low profits, high unemployment, decreasing invest-

ment, production and consumption, and a generally negative business climate. Political, economic, and social institutions are all greatly affected by these shifts in economic activity.

Profits are the driving force in capitalism and, because of this, capitalists will invest only if they have a high expectation of realization of profit.¹⁹ Without an environment favorable to the accumulation of capital, the cycle of production will not even begin. In the absence of a favorable environment, business confidence falls and investments decrease. When investments fall off, production, hiring, and consumption decline as well.²⁰

When the above described scenario occurs, the major determinants of whether capitalist relations will once again become productive are found in what Gordon, Edwards and Reich²¹ refer to as the social structure of accumulation. The social structure of accumulation consists of all of the societal institutions and processes which affect, either directly or indirectly, the accumulation of capital. The social structure of accumulation is made up of many different components which provide the necessary conditions for stimulation of the economy. However, historically, the social structure of accumulation has also been characterized by contradictions, which eventually bring the economy into a period of prolonged stagnation. Some of the major elements within the social structure of accumulation are technological development, the intensity of the class struggle, the organization of work, the structure of the labor market, and the form of the state. The social structure of accumulation is the entire configuration of institutions that play a role in the accumulation of capital.

Explaining the impetus for the cyclical nature of capitalist development, Gordon²² points out that economic crisis may itself produce the necessary environment for revitalization of the economy and the reproduction of capitalist relations. However, Gordon also notes that there is no guarantee that the period of decline will be followed by a period of growth. Economic crisis typically cheapens the cost of labor through high unemployment, the expansion of surplus populations, and the gradual introduction of labor-saving technologies. Crisis also weeds out unprofitable companies and industries, and enlarges the total amount of idle capital. Each of these is necessary but not sufficient to trigger another period of growth in the economy. In order for capitalism to once again become productive, a substantial restructuring of old institutions into a new social structure of accumulation must occur.

The restructuring of the social structure of accumulation, the creation of a more favorable climate for accumulation, the restoration of business confidence, the increase in the rate of profit, and the acceleration of investment may produce a once more expansive economy, but it cannot last forever. According to Mandel,²³ these resolutions to economic crisis contain specific contradictions that eventually return the economy to a state of crisis. Indeed,

the concept of “contradiction” refers to the notion that resolutions to crisis contain within them precisely those elements that bring about another crisis. The particular resolutions to a crisis differ, as the impediments to capitalist accumulation differ. Usually, economic crisis is caused by the interaction of several contradictions, such as overproduction, underconsumption, the rising organic composition of capital, and class conflict, one of which is typically dominant.²⁴ The contradictions and their consequences are historically specific and, thus, can only be identified through historical investigation. The criminal justice system is a vital component of the social structure of accumulation in capitalist societies. As the capitalist state’s most openly coercive form of social control, criminal justice plays a critical role in maintaining social order and, thereby, establishing a favorable business climate.

In the following section, we summarize both developments in the political economy and developments in U.S. criminal justice, in order to begin to explore criminal justice history in terms of the wider social structure of accumulation. This overview of U.S. economic history and criminal justice history provides a basis for understanding the role of criminal justice in the long cycles of capitalist development.

The historical development of long cycles and criminal justice policy in the U.S.

First expansion (1789/93–1820/26)

Mandel²⁵ locates the first long cycle of capitalist development between 1789/93 and 1847/48, the period of the Industrial Revolution. This period is characterized by bourgeois revolutions, the Napoleonic wars, the constitution of the world market for industrial goods, and the gradual spread of the steam engine. The first long period of expansion is located between 1789/93 and 1825/26, in which there was accelerated growth and a high rate of profit. Particular features of this period of expanding competitive capitalism include artisan-produced machines and the slow expansion of the industrial proletariat.

Although the United States experienced tremendous urbanization, immigration, industrialization and change during this time period, general social conditions were relatively positive and peaceful. The new nation was filled with opportunity. As Walker²⁶ points out, few efforts were made in the area of social control reform. Traditional methods of social discipline remained intact.

First contraction (1820/26–1845/48)

Wright²⁷ identifies the first period of expansion as the state of primitive

accumulation and the contraction phase which followed as the period of transformation to manufacturing. He further explains that two of the central constraints which led to economic decline were the low level of technology and the shortage of labor. Mandel²⁸ locates this depressed phase of the cycle between 1825/26 and 1847/48, and points out that it is characterized by decelerated growth and a low rate of profit. According to Mandel, this phase was brought on by increased competition, the rising cost of constant capital and a decrease in world market expansion.

Gordon et al.²⁹ also locate the first long cycle between the 1790s and the mid-1840s. According to these authors, the downswing between 1820 and the mid-1840s signaled the failure of the organization of work and the structure of labor markets to produce sufficient accumulation. Capitalists had a shortage of labor due to the lack of proletarianization, i.e., the process of forcing people to work as wage-earners in order to survive. Capitalists need a large supply of laborers from which to draw, in order to lower their labor and production costs and increase the rate of profit. Ultimately, proletarianization was facilitated by the criminalization of begging and various forms of vagrancy during this period of contraction. As Rothman notes, anyone who did not work for a wage, could be forced into an almshouse or prison and then put to work.³⁰

In addition to the creation of vagrancy laws, many other significant innovations in the area of social control took place during this time period, largely in response to deteriorating social conditions and growing unrest. This period of American history is riddled with signs of decline, unrest and fear.³¹ Long-standing social institutions became fragmented as they confronted the new institutions of industry. Although riots occurred in colonial times,

[i]n the 1830s an unprecedented and frightening wave of riots swept over urban areas. Philadelphia and Baltimore competed for the dubious title of "mob city", . . . New York experienced three major strikes in 1834 alone. Nor was the problem confined to the east; Cincinnati, St. Louis, and Chicago had their own riots. To many Americans, the survival of the new nation seemed at stake.³²

In 1837, 20,000 unemployed people in Philadelphia assembled in protest. In New York City, thousands organized in City Hall Park to protest monopolies, and the high cost of food and rent.³³ The Broad Street Riot in New York City began as a clash between volunteer fire-fighters and an Irish funeral procession which led to a riot involving one-sixth of the city's population and the eventual intervention of a cavalry regiment of 800 horse soldiers.³⁴ According to Richardson,³⁵ rapid population growth, high levels of immigration, increasing class distinctions, high mobility, and impersonal human and work relation-

ships all contributed to a sense of social disorder. But it was not until these elements were combined with severe economic depression in the world economy that official and organized government action was mobilized.

In response to these conditions within the political economy, major innovations in social control emerged. Possibly the most significant innovation during this period was the emergence of incarceration as the primary instrument for punishing criminals.³⁶ In the mid-1820s, separate institutions were constructed for juveniles. In the 1830s, the general prison style that began to dominate was based on confinement with hard labor. Also, in the 1830s and 1840s, there was a substantial growth in asylums for child-care, from orphanages to reformatories.³⁷

Another important development in the area of social control took place in law enforcement. Lipson³⁸ discovered that private police agencies emerged during this time and Platt et al.³⁹ note that private police played a major role in the social control of immigrants, workers and the poor. In addition to private police, the first bureaucratically organized, partially trained, public salaried, uniformed police began to appear in the latter part of this period.⁴⁰ Walker states that:

[t]he police, the prison, and the first juvenile justice agencies had appeared since the 1820s. The apparatus of social control was now far larger and more extensive than it had ever been; it was able to intervene in the lives of American citizens as never before.⁴¹

These innovations were not simple extensions of previous forms of social control, but, rather, they were radical departures from anything the world had witnessed prior to 1820. Many leaders of philanthropic organizations and members of the political elite struggled with other members of their own class, to convince them of the need for these new social institutions.⁴²

Second expansion (1845/48–1873)

Mandel⁴³ periodizes the second long wave from 1848 to 1893 and calls it the period of “free competition” in industrial capitalism. Mandel⁴⁴ suggests that the second long cycle is particularized by the generalization of the steam engine and the transition to machine-made machines. He also observes that, during this period, there were increases in world market expansion, industrialization, gold production, and railroad construction. According to Mandel, this stage contains the first technological revolution, which led to cheaper fixed capital, and a rise in relative surplus capital, as productivity increased.⁴⁵ Mandel observes that the steam machine was replaced by the steam engine and

that handicrafts were replaced by industrial production, which increased the rate of growth in the productivity of labor.⁴⁶

Gordon, Edwards and Reich⁴⁷ characterize the period between the mid-1840s to 1873 as the “consolidation” phase of “initial proletarianization”. American labor was transformed into a workforce of wage earners. Working for a wage, as opposed to being a self-employed artisan, for example, became the common form of labor. This reorganization of the workforce was vital to the economic and industrial expansion which took place during this period. Proletarianization helped to solve the critical shortage of labor which existed in the previous long cycle.⁴⁸

As in the earlier period of economic expansion, social conditions during the second expansion were positive and productive. Industrial violence and riots in the streets were rare, especially in comparison to the number of industrial battles and hunger riots of the previous period of stagnation. According to Walker,⁴⁹ there was no citizen outcry for public order during this period. Although criminal justice institutions did not remain dormant, there were very few innovations in this area. New police departments continued to be formed after 1845, but the initial excitement of the movement had passed and the pattern was established.⁵⁰ Correctional institutions failed to produce the anticipated rehabilitation of offenders and, thus, the fervor concerning this form of control diminished. Some movements to reform and humanize the prison emerged during the 1860s, but no major policy changes occurred. According to Rothman,⁵¹ the term which best describes the 1850s and 1860s was “complacency”. In comparison to the period of stagnation, enthusiasm for the creation of innovations in social control was notably absent during the period of the second expansion, and there was little concern expressed about the so-called “dangerous classes”.

Second contraction (1873 to 1893)

Wright⁵² identifies the intensification of class struggle as a major contributor to the onset of the second period of economic stagnation. He suggests that the growth in working class strength during this cycle was due to increased organization within the working class. Gordon et al.⁵³ assert that class struggle also played a major role in the eventual failure of the process of proletarianization. They contend that growing intercapitalist competition and workers’ struggles produced a squeeze on profits, which ultimately led to financial panic and the withholding of investment.

Wright and Mandel emphasize the “rising organic composition of capital” as a decisive contradiction in capitalism during this period.⁵⁴ Due to the rising cost of raw materials, along with old technology, an increasingly higher proportion

of capital was put into machines and raw materials. Only living labor can produce surplus value. Therefore, as a greater proportion of capital is invested into dead labor (machines and raw materials), all other things remaining equal, the rate of profit tends to decline. In addition, the intensification of class struggle kept the costs of labor relatively high, which also contributed to fall in the rate of profit.

Beginning with the devastating depression of 1873, social unrest and discontent spread throughout the cities of the United States. According to Dubofsky,⁵⁵ from 1865 to 1897 some of the most violent industrial conflicts in American history took place. The Great Railroad Strike of 1877 and the Great Upheaval of the 1880s put fear in the hearts of industrial capitalists. With the introduction of new, labor-saving technologies, unemployment for the first time became structural. Millions were unemployed. In addition, “public relief was usually nonexistent, and private charity either insufficient or offered only on the most demeaning terms”.⁵⁶ Piven and Cloward⁵⁷ note that unemployed people became involved in large demonstrations and riots. Dubofsky distinguishes 1877 as the most violent year in the late 19th century. Much of this violence was directed at the destruction of factories, which had brought about increases in labor discipline and labor-saving technology. As a result, even more unemployment and job insecurity were produced. Class struggle grew in scope and intensity, during this period, largely because workers had become powerful enough to pose a real threat to capitalist class interests.⁵⁸

For example, from 1881 to 1890 there were 9668 strikes and lockouts. Thirty-nine percent of the strikes in the 1880s were not initiated by unions, but rather, they were spontaneous. The Great Strike of 1877 virtually shut down Pittsburgh, Buffalo, St. Louis and Chicago as riots spread throughout the major rail cities in the country, and resulted in the deaths of dozens of people and \$5 million in property damage. Other grand scale strikes also occurred, such as Chicago’s McCormick Strike of 1886, the 1884 Longshoremen strike in Buffalo, and the street car strikes in Chicago, Columbus, Detroit and Indianapolis.⁵⁹

Within this period of decline, as in the previous depression, there appears to have been a merging of a moral crusade, anti-immigrant legislation, and concern about the poor. The moral crusade which occurred during the second contraction generated acute concern over victimless crime, as efforts were launched to counter what was perceived to be a wave of immorality and permissiveness in the 1870s. Walker observes that the “enforcement of vagrancy laws was a common response to the major depressions of the 1870s and 1890s.”⁶⁰ Through criminalization of the recreational activities of the working class, a direct attack was launched against the “dangerous classes”, who were said to be causing the violent disorders of the period. According to Friedman, the law “exploded” after 1870, “creating new victimless crimes and revital-

izing old ones."⁶¹ Even the federal government for the first time got involved in such legislation, with the Comstock Act of 1873. The Comstock Act prohibited the sale or use of contraceptive devices. The federal government followed this legislation with the Internal Revenue Act of 1890, which prohibited the smoking of opium, a practice almost exclusively restricted to Chinese immigrants.⁶² The recreational activities of the working class were subject more and more to regulation by the government.

This regulation was complimented by a revolutionary reorganization of major city police departments, and their transformation into the primary instruments for the repression of working class immigrants. According to Harring,⁶³ this is the most significant development in the history of the urban police in the United States. The urban police experienced a revolutionary transformation in structure, design and technique. Remarkable changes were implemented in technology, discipline, and in the size of police departments. The early departments were small and did not play the dominant position in crowd, strike and riot control that they did by the end of the nineteenth century. This revolutionary change in social control was an important aspect of the increasing socialization of the costs of production-reproduction and the general expansion of municipal services. The expanded role of municipal police in social control may also be attributed to the apparent legitimacy of the newly professionalized public police departments, which appeared in direct contrast to the corrupt, brutal and ineffective private police system.⁶⁴

The punishment realm of criminal justice also experienced significant innovations during the second period of contraction. Many of the programs that have traditionally been attributed to the Progressive Era (1900 to 1920) actually first emerged in the latter decades of the nineteenth century. As Walker⁶⁵ notes, the reformatory first emerged in the 1870s, and with it came the models for indeterminate sentencing, probation, and conditional release. Between 1860 and 1880, there was a wave of legislation throughout the United States establishing good-time credit policies.⁶⁶ Between 1880 and 1900, twenty-one states passed parole laws. The 1880s brought the advent of community corrections with the construction of the first settlement houses.⁶⁷ Also, with the assistance of the previously mentioned moral crusade, separate institutions were established for women prisoners and women matrons were first introduced in the field of corrections. Juvenile institutions, specifically the Elmira Reformatory in 1877, spearheaded many of the reformatory-type guidelines.⁶⁸ It is important to note, however, as Walker and Miller maintain, that these innovations should not be seen as institutional substitutes or humanitarian efforts to decarcerate individuals. These developments, like other reforms in criminal justice during this time period, are more realistically viewed as efforts to develop more effective forms of social control.⁶⁹

Third expansion (1873–1913/15)

Mandel identifies imperialism as one of the solutions to the stagnation of the second contraction, pointing out that “large scale capital investment in raw materials helped to counteract the rising organic composition of capital by lowering the cost of circulating capital”.⁷⁰ This investment made raw material production more efficient through better technology and lowered the costs of raw materials. Such investment also brought about an expansion in world markets, with capital exports to colonies and semi-colonies, a practice which cheapens the cost of raw materials. Mandel locates this expansion between 1893/4 and 1913.⁷¹

Wolfe also characterizes this period in terms of a wave of expansionism, as the “ruling classes turned to foreign expansion as a solution to domestic problems”.⁷² Due to the problem of labor militancy, immigration became a major policy concern of the state. People were encouraged to migrate into areas without enough workers to lower the value of labor and they were discouraged from remaining in areas that had too many dislocated rural peasants. America’s major urban and industrial areas were flooded with a massive wave of immigrants, who were used by capitalists to break strikes and lower labor costs.⁷³

Gordon et al., who locate this expansion period between the late 1890s and the First World War, also write about the demand placed on capitalists to quell labor militancy. They describe the consolidation of a process which they refer to as homogenization, which reduced the jobs of most American factory laborers to common, semi-skilled employment. The homogenization of labor made it easier to replace workers, opening the door for immigrants to take the jobs of disgruntled or striking workers. Employment insecurity grew rapidly and lowered the value of the industrial worker and his or her skill, thus weakening the bargaining power of labor.⁷⁴

The process of deskilling workers can only be accomplished through the introduction of proper technology. Mandel categorizes this period as the second technological revolution. From the 1890s to 1940, the machine production and application of electric and combustion engines began to take place in the capitalist world. The focus was on keeping markets and the economy expansive, while raising the level of labor exploitation to new heights.⁷⁵

The period from 1893 to 1913/15 was not characterized by the magnitude of concern about crime, nor the number of criminal justice innovations, noted in the previous period of decline. The period was not completely without social control concerns, for many of the reforms begun in the previous period of stagnation continued to expand during this period. However, no panic over or great demand for social control is evident in this period.⁷⁶

Third contraction (1913/15–1940)

According to Wolfe,⁷⁷ expansionism and immigration contained certain innate problems that prevented them from being permanent solutions to economic decline. The primary problem is that the world is a finite place and eventually market expansion reached a dead end. The immigration/migration phenomenon also reached similar limits. Instead of solving problems, immigration only shifted problems to new locations. The flood of immigrants into small urban areas produced social problems that the state was not equipped to handle. Reich refers to the period between 1870 and 1920 as the “era of mobilization”, and points out that, during this period, the social structure was inappropriate for dealing with the enormous problems of mass unemployment, low education, poverty, disease, and the other social consequences of industrialization and urbanization. America’s mobile, erratic, free-wheeling capital and labor markets served to stimulate the boom of the 1890s, but they lacked the planning, management and social responsibility necessary to offset the consequences of the boom.⁷⁸

Gordon et al. suggest that the successes of homogenization began to decay during the period of decline between the two world wars.⁷⁹ Wright illustrates that the weakening of the working class lowered the cost of labor to a level that stifled economic growth.⁸⁰ In other words, attempts to crush the power of labor, in order to raise the accumulation of surplus value, eventually lowered the accumulation of surplus value, as a crisis of underconsumption materialized. Mandel submits that the extremely high rate of exploitation led to a high level of speculation and investment.⁸¹ Gordon et al. state that the process of homogenization, and the other methods of crushing labor unrest, were too successful in extracting surplus value. The decline in real wages intensified the problem of underconsumption and antagonized the working class into becoming better organized.⁸²

Wright explains that, as capitalists continue to increase the absolute and relative level of surplus value, prices are pushed up and wages are pushed down, limited markets are expanded and production increased. It becomes increasingly difficult for demand and/or buying power to stay high enough to absorb the products at a level that will realize the expected surplus value. In other words, as more capital is accumulated privately, there is less capital available among other groups of consumers to buy products.⁸³

Disorder, riots, social unrest and fear characterized the period from 1913/15 to 1940. In 1918 and 1919, for example, a series of race riots in New Orleans, Charleston, Tulsa, Omaha, Washington, D.C., Knoxville, Chicago, and East St. Louis heightened public fears of breakdown of law and order.⁸⁴ According to Piven and Cloward, much of the social disorder of this period was due to the

collapse in the economy. The economic system was obviously not working and people lost faith in it. Demonstrations, protests, and riots became commonplace, as workers and the unemployed sought both to stimulate social change and simply to survive. In Chicago, five thousand men marched on the headquarters of the lodging houses in order to stop evictions. In 1931, evictions were temporarily suspended after three police officers were injured in a “rent riot”.⁸⁵

There was a serious rise in looting in the early 1930s and organized unemployed people became a very real threat to the social order. People banded together to demand food; thirty to forty people would regularly organize and descend upon markets. In New York City, 1,100 men waiting on a Salvation Army breadline mobbed two trucks delivering bread to a nearby hotel. In Henrietta, Oklahoma 300 marched on storekeepers and demanded food. The chain stores and the media were scared to report these events for fear of starting a contagion effect.⁸⁶ Unemployed people marched in New York, Detroit, Cleveland, Philadelphia, Los Angeles, Chicago, Seattle, Boston and Milwaukee under such banners and “fight – don’t starve”. “[I]n December 1931, participants in the first of two Communist-led national hunger marches on Washington were met on the ramps leading to the capitol by police armed with rifles and riot guns (backed up by machine gun nests concealed in the stonework above).”⁸⁷

Union membership increased dramatically. Labor militancy increased as well. “Between 1915 and 1916 the number of reported strikes more than doubled, and the latter year recorded more industrial disputes than any previous time in the United States.”⁸⁸ In 1917, for the first time in U.S. history, one million workers annually walked off their jobs. In 1919, over four million workers struck and the General Seattle Strike paralyzed the city for five days. In 1933, fifteen strikers were killed by police, and in 1934, forty strikers were killed. In 18 months, troops were called out in 16 states.⁸⁹ Preston identifies “an eruption of mass strikes on a scale never before seen in American society.”⁹⁰ And, as riots and demonstrations by both the employed and unemployed threatened established institutions, the state responded both with relief and with violence.⁹¹

The third phase of economic decline, like previous periods of decline, was characterized by innovations in the urban police and the correctional system; but the most substantial and radical changes occurred within the federal government. Fear of crime and social disorder increased during the depression and the government responded in full force. The federal government expanded into areas in which it had never before been involved. Federal authorities made an obvious effort to become more involved in the control of street crime.

The implementation and development of probation, parole, indeterminate sentencing and other reforms in corrections intensified between 1916 and 1940.

A major shift in reforms occurred in the early 1920s, as crime control ideology shifted from an emphasis on societal reform to an emphasis on psychological and individual reform.⁹² Several important innovations occurred in the area of corrections during this period. For example, in 1913 Wisconsin established the first work release program. In the 1930s neighborhood and area projects began to multiply as the repressive apparatus moved securely into the community.⁹³ The federal government also moved into the area of corrections, in 1925, with the first federal probationary law.⁹⁴ This was followed by the establishment of the Federal Bureau of Prisons in 1930, and the 1935 enactment of the Ashurst-Summis Act to modify prisons.⁹⁵

Concerns about inefficiency and corruption among police “sparked a movement for police ‘reform’ that was expressed in several ways during the period from 1910 to the early 1930s”.⁹⁶ Many of the progressives in business, government and the universities became critical of the police and this triggered a new wave of police professionalization.⁹⁷ Police professionalization was connected to a move to increase police training and to technological developments, such as the radio patrol car. “By the late 1920s and 1930s, the crime-fighter model of policing moved to the forefront” of police departments throughout the country and improvements in technology reflected the desire to make the police more efficient.⁹⁸

As previously mentioned, the most significant development in the area of social control during this period was an increase in federal intervention into street crime. Walker refers to the 1920s and 1930s as the “crime control decades”, as attitudes hardened toward crime and criminals. National crime commissions flourished and moral crusades against alcohol, vice and drugs led to Prohibition, the Harrison Act of 1914, and the Marijuana Tax Act of 1937. The number of federal agencies responsible for enforcing laws increased dramatically with the creation of the Federal Bureau of Narcotics, the Bureau of Prohibition, and the Federal Bureau of Investigations.⁹⁹

During this time period, J. Edgar Hoover took command of the Federal Bureau of Investigations (FBI) and made it the most important law enforcement agency in the country. The FBI played a major role in domestic spying and the suppression of socialists, labor unions and radicals. This process was facilitated by a series of sensational crimes and the creation of many new federal crimes, such as kidnapping, bank robbery, interstate theft, and anti-American activities. Clearly, the federal government began to play an unprecedented role in criminal justice during this period of economic stagnation.¹⁰⁰

Fourth expansion (1940–1966/70)

The transformation of the social structure of accumulation that ushered in the fourth major expansion in capitalist development was characterized by efforts

to raise demand, so that the crisis of underconsumption could be remedied. Wright¹⁰¹ explains that the Keynesian form of state intervention into the economy was designed to expand aggregate demand for products, especially through military spending. It was a conscious effort by state managers to increase the money and credit supply in order to artificially create demand. Wright also suggests that World War II helped the U.S. economy, “both through military spending and through the destruction of great quantities of capital”.¹⁰² This destruction of capital was primarily in Europe and Asia, which facilitated the United States’ domination of the world, economically, militarily and ideologically. This period of U.S. domination is sometimes referred to as *Pax Americana*.¹⁰³ The United States dollar standardized international currency transactions with the Bretton Woods Agreement.¹⁰⁴

Reich observes that the United States moved full-force into high-volume machinery and production with large-scale organization.¹⁰⁵ Mandel identifies the period between 1940/48 and 1966/67 as the third technological revolution and he associates this period with the generalization of machine production of electronic and nuclear apparatuses.¹⁰⁶ Bluestone and Harrison note that this massive technological change was facilitated by a postwar social contract between capital and labor.¹⁰⁷ Capitalists needed labor peace in order to increase accumulation; thus, they agreed to link unionized employees’ salaries with their level of productivity. Harrison and Bluestone point out that, with the virtual destruction of foreign competition, U.S. corporations could simply raise prices to compensate for increases in production costs or labor concessions.¹⁰⁸

Gordon, Edwards and Reich identify “segmentation” as another strategy for securing labor peace in the post-World War II period.¹⁰⁹ Job structures and labor markets became more separated and divergent. The segmentation process divided workers and decreased their sense of unity by separating their interests and using them against each other. As large corporations formed into definite core industries, peripheral and non-unionized workers developed antagonistic attitudes toward the better paid unionized employees of these core industries. According to Gordon, Edwards and Reich, the managerial revolution also led to more segregation as the numerous tiers of supervision divided and antagonized employees. The segmentation process helped to weaken labor organization and strength; thus, allowing industrialists to maintain their dominance in the class power relationship.¹¹⁰

During the expansion period of the 1940s and 1950s, there was generally less concern about crime and far fewer criminal justice innovations than in the previous period of decline. The period was not without significant events in the area of social control, especially considering that this was the time of the McCarthy Era. But “in general the police received little scholarly attention during the 1940s and 1950s.”¹¹¹ There was no great concern over the criminal

justice system and, thus, criminal justice essentially drifted without much direction until the 1960s.¹¹²

Fourth contraction (1966/70 – present)

The contradictions inherent in government efforts to stimulate demand, to preserve domestic order and to protect American business interests overseas, manifested themselves in the late 1960s. One of the major problems that developed was the creation of permanent inflation. Gamble and Walton suggest that spending by both the public and private sectors out-paced production and resulted in rising prices.¹¹³ The segmentation of labor became less effective in reducing labor militancy as worker dissatisfaction intensified.¹¹⁴ Wright suggests that Keynesian social reforms, such as unemployment insurance, reduced the effectiveness of unemployment in keeping inflation down.¹¹⁵

In addition, as technology in the United States began to deteriorate and newer technology was generalized to other countries which could produce the high-volume products at lower costs, foreign intercapitalist competition intensified.¹¹⁶ As noted above, with the rising costs of social reforms, labor, and raw materials in the 1960s, the rate of profit was preserved by rising prices. However, with the onslaught of foreign competition, United States capitalists found themselves unable to raise prices and still remain competitive.¹¹⁷ U.S. dominance of the world economy began to deteriorate with the collapse of *Pax Americana*, the Bretton Woods Accords and the labor peace accords.¹¹⁸ U.S. corporations began to shift capital within and out of the United States in an effort to reduce labor costs. Capitalists found it increasingly difficult to realize their expected rate of profit; thus, investment declined, production slowed, and people were put out of work.¹¹⁹

Social conditions since 1966 reflect this deterioration of U.S. economic, military and ideological dominance internationally and domestically.¹²⁰ The turbulent sixties are a well documented period in United States history. Images of violent racial conflicts, civil rights marches and demonstrations, and massive student protests against the war in Vietnam are etched in the public's memory.¹²¹ The social rebellions which occurred during this period produced real fear within the general public. The militancy, the violence and the extensive property damage of the 1960s shook the nation.

Beginning in the 1960s, the powerful civil rights movement exposed inequality and challenged the forms of social control focused on Blacks. The student movement challenged the "establishment" and its traditional forms of social restraint. Student protests increased and ultimately centered on an anti-Vietnam war campaign. These challenges by young United States citizens often came into conflict with the legal system and the government did not appear to be able to control the situation.¹²² Race riots, violent demonstrations

and prisoner rebellions escalated as the police often responded to protest with violence.¹²³ “The rising tide of public disrespect and fear of crime in the streets” and growing disrespect for law and established institutions characterize this period.¹²⁴

As for the 1970s, although many of the movements calmed during this decade, economic deterioration continued and was accompanied by mass unemployment. Unemployment grew in the mid-1970s and again between 1980 and 1982 when it reached its highest level since the 1930s.¹²⁵

Although unemployment levels have dropped since 1982, high levels of underemployment, declines in real income for the majority of U.S. families, and increasing income inequality clearly suggest that economic and social conditions continue to deteriorate.¹²⁶ From 1977 to 1989, the “real income of families in the middle fifth of the population actually fell 5.3 percent . . . and the incomes of poorer Americans fell even further during this period – 10.4 percent.”¹²⁷ It should also be noted that as the economy worsens many unemployed people are not counted in official statistics. Much of the improvement in official economic statistics during the 1980s can be attributed to a “credit card” economy which has been supported by skyrocketing Federal Government deficits.

Economic and social conditions in the United States steadily declined under both the Reagan and Bush Administrations. Concern about the need for social control and discipline intensified, as official crime rates continued to increase. Traditional social institutions such as the government, the family and the church appeared to be losing their grip on society.¹²⁸

As the public began to lose faith in government, state managers started to search for new mechanisms with which to control social disorder. The criminal justice system was at the forefront of efforts to stop race riots and curb the militant activities of students. The correctional system underwent many adjustments and policy changes. Law enforcement agencies were criticized for their failures during the turmoil of the sixties, and money and innovations quickly appeared within this branch of criminal justice. With the establishment of the Law Enforcement Assistance Administration, the federal government grew larger and more repressive; its tentacles moved deeper into juvenile delinquency, drugs, the police, corrections, and domestic spying.¹²⁹

The first major policy change in U.S. corrections during this period was in the late 1960s with the re-introduction of decarceration, through various forms of community-based corrections, probation and parole. Between 1967 and 1974 the number of people on probation and parole increased dramatically.¹³⁰ Connected to this development was the adoption of new methods of social control, such as behavior modification, psychosurgery and drug therapy, within the treatment- rehabilitation model in corrections.¹³¹ According to Hylton,¹³² these decarceration programs did little to reduce the use of in-

carceration. Numerous studies have shown that decarceration or diversion programs often involve individuals who would otherwise not be handled in an official manner. Thus, such programs “widen the net” of the state’s social control function.¹³³

Beginning in the mid-1970s, a major shift from treatment to punishment took place in corrections. The popularity of the “justice model” grew rapidly as people were attracted to the idea of criminals receiving their just deserts. Alongside the justice model with its emphasis on retribution, a “crime control” model developed and provided further ideological support to “tough on crime” initiatives, such as stiffer flat-time sentences, preventive detention, the death penalty, and the abolition of plea bargaining and parole.¹³⁴ Heightened concern about crime, and demands for retributive justice and deterrence through tough criminal justice, have continued through the onset of the 1990s.

Local police departments also went through radical changes during the 1960s and 1970s. As Platt et al. note, “in the late 1960s, the new forms of policing were strongly influenced by the unprecedented growth of the federal government.”¹³⁵ The police were heavily criticized in the 1960s for their inappropriate and often violent reactions and the federal government sought new, more effective methods of crime control by flooding the field with money for research, training, education and new technology.¹³⁶ The local police in the United States implemented policy changes to enhance professionalization, management and supervision, police-community relations, and intelligence. The introduction of the computer radically increased the ability of law enforcement agencies to gather intelligence.¹³⁷ Law enforcement experienced a tremendous boost beginning in the late 1960s, and still receives a tremendous amount of financial and political support.

A review of developments in law enforcement during this time illustrates that the intervention of the federal government into criminal justice during this period is extraordinary. Many of the major innovations in social control occurred at the federal level, beginning with President Johnson’s “War on Crime” and the Safe Streets and Crime Control Act of 1967. However, the most significant piece of legislation in the war on crime, or possibly in the history of the police, was the Omnibus Crime Control and Safe Streets Act of 1968. This piece of legislation was “the most sweeping invasion-of-privacy legislation ever to be placed on the books.”¹³⁸ In the 1970s, the Nixon Administration continued the trend set by this Act with a variety of government programs, enactments and agencies. Nixon greatly expanded the role of the federal government in crime control, with efforts such as the “air marshals program” and massive domestic spying.¹³⁹ In the mid-1970s, the federal government’s policies reflected the crime control model. For example, Schroeder observed a shift in emphasis in federal drug legislation from a focus on research and treatment to enforcement and punishment.¹⁴⁰

Many of the get-tough, crime control policies were implemented within the Reagan Administration.¹⁴¹ This trend is reflected in the move from the rehabilitative treatment of drug addicts to the zero-tolerance for drugs ideology of the 1980s. Along these same lines, a National Drug Czar is created to wage a “war on drugs”. In addition, the Reagan Administration rebuilt the FBI and CIA and greatly enhanced their intelligence gathering and enforcement capabilities.¹⁴² The U.S. Congress authorized fixed sentencing without parole, preventive detention, and wider authority for prosecutors to seize and sell the property of convicted drug dealers and users.¹⁴³ The substantial growth in both the rate of incarceration and the number of people incarcerated in the 1970s and 1980s reflect the punishment orientation that has developed during this latter period of investigation. The rate of incarceration among state and federal institutions increased from 96 in 1970 to 139 in 1980, and to 244 in 1988, which reflects a 154% increase between 1970 and 1988.¹⁴⁴ The total number of persons incarcerated in state and federal facilities increased from 196,429 in 1970 to 315,974 in 1980, and to 603,732 in 1988, 207% increase between 1970 and 1988. There can be little doubt that crime and its control have been major issues since the 1960s and appear to be gaining momentum.¹⁴⁵

Summary

We have identified patterns in the development of capitalism in the United States. Since the 1780s, the U.S. economy and the world economy have experienced long periods of economic expansion followed by sustained periods of economic stagnation. During the periods of economic deterioration, unemployment and economic inequality increase substantially and social unrest and crime become critical problems. Old forms of social control are typically replaced with newer methods of control. New techniques implemented during periods of economic decline have included the introduction of incarceration, the urban police force, community corrections, and federal enforcement agencies. It is not our contention that there is no repression of subordinate classes during periods of economic prosperity. However, the evidence presented here suggests that criminal justice innovations and radical shifts in policy appear to be concentrated in periods of poor economic conditions.

Discussion and conclusion

If criminal justice innovations and radical shifts in policy are, as we suggest, concentrated within periods of economic stagnation, how is this to be explained? Although the events and conditions described here are structural, an

explanation of these events must incorporate social structure and human agency. All social institutions and policy are human constructions. Therefore, the motivations and interests of criminal justice practitioners and state managers who develop policy must be incorporated into the analysis. While further research is needed to document the role of human agents in the processes described here, it is possible to infer some of the motivations and intentions of capitalists, state managers, and workers from examination of these processes. The following explanation of the relationship between long cycles of capitalist development and the history of criminal justice in the U.S. is based both on the structural conditions described above and on the motivations and intentions of actors which we believe are reasonably inferred from the historically specific material conditions.

First, certain structural conditions exist which influence the individual actions of capitalists, workers and state managers during periods of economic stagnation. The logic of capitalism suggests that as the rate of profit begins to fall, capitalists tend to restrict the investment of their capital. A decline in general business confidence is produced as capitalists fail to realize the expected return on their allocated capital.¹⁴⁶ As investment slows, production also declines. New jobs are not created, old jobs are lost and opportunities become more limited. The slow-down in production is accompanied by increases in unemployment, underemployment and job insecurity. As state revenues decline, state managers often find it necessary to cut back social programs designed to assist marginalized workers, such as economic supports, education, training, and job placement assistance.¹⁴⁷ It is not surprising that labor militancy, protests and social tensions spread in response to these conditions. Indeed, as we have seen, prolonged periods of economic contraction have historically been characterized by increases in levels of social unrest.

The economic conditions of labor continue to grow worse as capitalists seek to regenerate economic growth. An important part of the recovery process includes the lowering of production costs in order to bolster the rate of profit.¹⁴⁸ Because a major element of production costs is the cost of labor, a key to increasing rates of profit is to cut expenditures for labor. Strategies to lower labor costs have included union-busting, slashing wages, cutting benefits, laying off workers, the introduction of labor-saving technology and the dismantling of the social security net for the poor and unemployed.¹⁴⁹ Historically, these strategies have also included the use of convict labor,¹⁵⁰ the use of police officers as strike breakers,¹⁵¹ and the suppression of labor militancy.¹⁵² These policies further aggravate feelings of anxiety, frustration and crisis among workers. As material benefits dwindle, workers lose faith in the economic system, the political administration, and/or certain social policies, depending on where the workers place the blame for their plight. The intensification of social unrest further exacerbates problems within the economy

because of the negative effect on general business confidence.¹⁵³ The individual capitalist is not likely to invest when property is being destroyed by riots and when laborers are resisting their work. The social environment is less predictable and, thus, a high rate of profit is not certain. Efforts to stimulate the economy must include restoring social order.

It is in the realm of securing and maintaining social order that the state plays one of its most vital roles in facilitating the accumulation of capital. Through its apparatuses of social control, including the criminal justice system, state managers attempt to preserve the peace both materially and ideologically. State managers understandably support economic growth, in order to increase revenues for the state, to lower unemployment, to minimize the effects of inflation, to relieve social unrest and to reduce class tensions. More fundamentally, state managers want a strong economy because, without it, the populous will likely vote in new leadership.¹⁵⁴

State managers also seek to secure social order for many of the same reasons that they support economic growth. Not only do they wish to preserve the current political structure, they receive pressure from both the rich and the poor to “do something” about the “crime problem”. The important role that the preservation of order plays in the accumulation of capital may simply be an unintended consequence of the intentional efforts of government officials to reduce crime and disorder.¹⁵⁵

According to Box and Hale, the critical intervening variables between recessions and increases in state coercion are the following three beliefs among decision-makers. The first is that the social order is threatened by periods of economic decline.¹⁵⁶ For example, Cook and Zarkin suggest that it is commonly believed that recessions cause crime.¹⁵⁷ According to Box and Hale, the second common sense notion is that the most economically depressed groups (i.e. unemployed, homeless, young, male minorities) are the most likely to commit crimes and disrupt the social order.¹⁵⁸ Finally, conventional wisdom maintains that increases in state coercion and punishment will deter these people from being socially disruptive.

Although increasing punishment serves to shore up class domination in times when power relations are potentially threatened, Box and Hale do not posit a conspiracy between state managers and capitalists to protect power relations. They introduce human agents into the analysis of the relations between the economy and criminal justice, but no all-knowing agents acting as instruments of the capitalist class. Rather, the preservation of class domination is viewed by Box and Hale as an unintended consequence produced by an aggregate of persons making common sense decisions in the face of economic and political upheaval.¹⁵⁹

Stephen Box maintains that the “logic of the situation” is that poor economic conditions, combined with high levels of unemployment make crime more

attractive and, thus, increase the rate of crime. In addition, criminal justice administrators, judges, legislators, parole board members, and police and probation officers believe that unemployment causes crime. Therefore, when unemployment increases, state managers enter into a posture of readiness, preparing for the worst. Based on their beliefs about unemployment and crime, public officials seek out new strategies of social control. When one adds to this “logic” the popular, common sense notion that increasing the likelihood and severity of punishment will deter potential law violators, it follows that deteriorating economic conditions and increases in the unemployment rate will quite naturally lead to increased attention to the criminal justice system. What follows are increases in criminal justice innovations, policy changes and new institutions during the periods of economic stagnation. The increased focus on criminal justice in turn intensifies the apprehension about crime among the public.¹⁶⁰

As in other aspects of the social structure of accumulation, mechanisms for social control come to be seen as outdated and ineffective and state managers seek new mechanisms of control. They seek strategies which are more effective in stopping crime and social unrest, and which will, at the same time, legitimize the political economic system. In contrast to Hall et al.’s argument that such efforts reflect the development of an “exceptional state” during troubled economic and political times, we argue that there is nothing “exceptional” about this period in relation to the role of the state or the criminal justice system.¹⁶¹ As Wolfe¹⁶² points out, the capitalist state has always played a major role in the accumulation of capital. It is not necessary for the state to move into an exceptional mode in order to perform this function. State managers have only to continue their regular routines. It is in fact “business as usual”, except for the fact that current methods of control have become ineffective and new methods must be developed in the face of declining economic conditions.

In conclusion, the findings of this project provide support for the assertion that the economy is a significant factor in the development of criminal justice policy and in the emergence of criminal justice innovations. The findings also support the notion that the long cycles of capitalism are important to the history of criminal justice in the United States.

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