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# American Exceptionalism in Inequality and Poverty: a (tentative) historical explanation

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**Nicola Lacey and David Soskice<sup>1</sup>**

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International Inequalities Institute  
The London School of Economics and Political Science  
Houghton Street  
London  
WC2A 2AE

Email: [Inequalities.institute@lse.ac.uk](mailto:Inequalities.institute@lse.ac.uk)

Web site: [www.lse.ac.uk/III](http://www.lse.ac.uk/III)

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**Abstract**

The United States is a fascinating case study in the complex links between crime, punishment and inequality, standing out as it does in terms of inequality as measured by a number of economic standards; levels of serious violent crime; and rates of imprisonment, penal surveillance and post-conviction disqualifications. In this chapter, we build on previous work arguing that the exceptional rise in violent crime and punishment in the US from the mid 1970s to the early 1990s could be explained by the interaction of four political and economic variables: ‘technological regime change’; ‘varieties of capitalism’ and ‘varieties of welfare state’; types of ‘political system’; and – critically and specifically – the US as a radical outlier in the degree of local democracy. Here we ask three further questions implied by our previous work. First, why did such distinctive patterns of local democracy arise in America? And to what extent is this political structure tied up with the history and politics of race? Second, what did the distinctive historical development of the US political economy in the 19th century imply for the structure of its criminal justice institutions? And third, why did the burden of crime and punishment come to fall so disproportionately on African Americans?

**Keywords:** inequality, poverty, crime, punishment, local autonomy, race, segregation, American Exceptionalism

By any standards, the United States presents itself as a fascinating case study for a volume considering the complex links between crime, punishment and inequality. Despite rich veins of relevant scholarship across a number of disciplines, each of these links, and the existence and direction of causal vectors between them, remain contested. But, broadly speaking, there is recognition of the fact that societies with high levels of inequality tend also to exhibit high levels of both crime – particularly violent crime – and punishment. Most of the exemplary cases for this observation, however, feature one or more of two further features: an insecure and/or very recent embedding of a democratic political system; and the late and/or incomplete embedding of an ‘advanced’ capitalist economic system. Amid longstanding democracies with advanced capitalist economies, the US stands out in terms of a number of key features: inequality as measured by a number of economic standards (Lindert & Williamson 2016; Pickett & Wilkinson 2009); levels of serious violent crime (Gallo *et al.* 2018; Roth 2009); imprisonment rates and rates of penal surveillance and post-conviction disqualifications (Enns 2016; Garland 2017; 2018; Lacey 2008; Reitz (ed.) 2018). With a gini co-efficient of 0.39 as compared with 0.35 in the United Kingdom (OECD 2019); a homicide rate 5 times that of the UK, and at least 2.57 times higher than the OECD average (World Bank Group 2017);<sup>2</sup> an imprisonment rate which, even after a modest reduction over the last decade (Phelps & Pager 2016; Reitz 2018), still stands at over four times higher than those of other liberal market economies such as Scotland, England and Wales, New Zealand and Australia, the United States occupies the unenviable position of being an outlier, in all the wrong ways. And it is an outlier even among the more unequal, more criminogenic, and more punitive liberal market economies of the advanced democracies of which it has so often declared itself the leader.

In previous work we have argued that the exceptional rise in violent crime and punishment in the US from the mid 1970s to the early 1990s could be explained by the interaction of four political and economic variables: ‘technological regime change’, in this case the collapse of the Fordism; ‘varieties of capitalism’ (Hall & Soskice 2001; Lacey 2008; Lacey *et al.* 2018) and ‘varieties of welfare state’ (Esping-Andersen 1990) – the US as liberal market economy and liberal welfare state; the ‘political system’ – the US as a competitive/majoritarian rather than negotiated/ proportional representation political system (Lipjhardt 1984; 1999); and – critically and specifically – the US as a radical outlier in the degree of local democracy, with policies on residential zoning, public education (kindergarten to year 12), policing, prosecution, justice and transportation, all decided directly or indirectly by local voters (Fischel 2001; 2014; Lacey & Soskice 2015; 2018).

Our broad argument is that rising violent crime came from the poverty, lack of welfare, limited education, and lack of effective policing, in the tracts into which zoning policies segregated

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<sup>2</sup> World Bank Open data for individual OECD countries for 2015 (or nearest available year) including the US produces a homicide rate of 1.93 (US included), implying that the US homicide rate is 2.57 times higher than the average. Grinshteyn and Hemenway (2016) used data for 2010 from 24 OECD countries *excluding the US* and calculated the US rate to be 7 times higher than the non-US average.

the disadvantaged losers from the collapse of Fordism, policies which favoured median local voters by bolstering house prices and reducing property taxation (Gallo *et al.* 2018; Lacey & Soskice 2015; 2018; Miller 2016; 2018). And the very same dynamics shaped a distinctive, and toxic, politics of punishment, particularly from the 1970s on. In particular, these electorally driven patterns of residential segregation reinforced and aggravated the radical racial inequality which is a further and striking feature of American history. And while the over-representation of Black and Hispanic Americans in the criminal justice system echoes with comparable levels of racial disproportion in the prison systems of countries like New Zealand or England and Wales, there remain important differences in the American racial politics of crime and punishment which, we argue, relate specifically to the power of American local politics (Peterson & Krivo 2010; Schneider & Turney 2015).

Recent research in a number of disciplines has contributed to an accumulating evidential and theoretical base for our thesis. The tendency of American political fragmentation to unleash 'centrifugal', polarising forces has been identified by historians and political scientists (Gerstle 2015: 154–5; King 2000; 2005; 2017; King & Smith 2005; 2011; Miller 2016); and the key impact of local democracy and locally based criminal justice institutions on the development of criminal justice policy has been confirmed in a range of broadly criminological work (Appleman 2017; Brown 2016; Campbell 2014; 2016; 2018; Verma 2016). More specifically, many recent studies have confirmed the decisive impact of electoral cycles on both judicial and prosecutorial decision-making (Berdejó & Chen 2017; Nadel *et al.* 2017; Park 2017). In most of these studies, the finding is that, under the conditions prevailing from the collapse of Fordism from the 1970s on, these electoral dynamics have fed an upward trajectory in punitiveness: indeed Pfaff (2017; see also Lynch 2018) has gone so far as to claim – on the basis of meticulous empirical analysis – that the single most important reform needed to make progress in dismantling mass imprisonment would be a move away from the election of prosecutors. The impact, and changing patterns, of America's exceptional levels of residential segregation, which we identified as a key mechanism through which local democracy had produced and maintained inequality in educational, economic and criminal justice spheres, continues to attract a great deal of notice in the social sciences (Ellen & Steil (eds) 2019; Sampson 2019; Schneider & Turney 2015; Smith 2012). And both the longstanding phenomenon of unusually high American levels of inequality (Lindert & Williamson 2016) and failure to develop a comprehensive welfare state, as well as the correlation between inequality and ungenerous welfarism with changes in crime and punitiveness, particularly since the 1970s, has continued to attract the analytic efforts of criminologists, political scientists, sociologists and historians (Garland 2017; 2018; Hinton 2016; Phelps & Pager 2016; Reitz (ed.) 2018; Roth 2009; 2018; Schoenfeld 2018; Tonry 2018).

As a result of this scholarship, we are gradually accumulating a better understanding of the cultural, institutional and political mechanisms through which the United States' extraordinary outcomes in crime, punishment and inequality are being produced and maintained; and some promising hypotheses are emerging to explain how the distinctive American economic, political and social structure has produced these outcomes over time. One thing which

emerges from this literature is the importance of history (Adler 2015; Campbell & Vaughn 2018; Gottschalk 2006; Simon 2017). For the institutions which shape these outcomes today are the products of long processes of historical development (Garland 2007; 2010; 2017). A historical focus is, accordingly, important in developing our argument that America's outlier position among contemporary advanced democracies is shaped decisively by its distinctively institutionalised political system. In this paper, we therefore tackle this historical process, asking three questions implied by but only very partially covered in our previous work:

*First, we confront the fundamental question, why did such distinctive patterns of local democracy arise in America? And, in light of the over-representation of African-Americans in the criminal justice system, how is this political structure tied up with the distinctive American history and politics of race?* Here we go back to the institutional strategy of the Republican Ascendancy in the 1870s on to provide the framework for industrialisation, following on from the failure of Reconstruction of the South. Drawing on the work of Bensel (2000), Gerstle (2015) and Novak (1996) among others, we explain decentralisation of political power to major cities to provide non-unionised (largely immigrant) labor to the equally unconstrained and developing giant Chandlerian corporations, subject to Supreme Court interpretations of the Interstate Commerce clause and presidential interpretations of the Clayburn and Sherman competition legislation. (At the same time, the Republican Ascendancy allowed the exclusion of the southern states, deeply hostile to industrialisation and its potentially transformative possibilities for African-Americans, but forcing the South to buy northern manufactures by prohibiting internal tariffs). We contrast the American experience with the very different British experience in which from a highly decentralised system in the early 19th century, British political leaders developed a highly centralised system (Cox 1987).

*Second, we ask what this political-economic history implied about the development of specifically criminal justice institutions.* Both the American and the British criminal justice systems saw a process of modernisation during the 19th and early 20th centuries; but, reflecting the broader political economy picture, the US system neither centralised nor professionalised to anything like the same extent as the systems of England and Wales or of Scotland. Here our approach complementary to Garland's approach in discussing both capital punishment and the foundations of penal policy in the United States (2010, 2017, 2018).

*Third, and equally fundamental, we ask: why has the burden of violent crime and punishment continued to fall so disproportionately on African-Americans?*<sup>3</sup> Drawing on King's (2000; 2005; King & Smith 2005; 2011) work, we argue that, with cruel irony, the 'original' Americans and English-Irish-Northern European 'first wave' immigrants of the 19th century legislated tight immigration controls in the 1920s against the 'second wave' immigrants from Italy,

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<sup>3</sup> The widespread, state-sanctioned violence against Native Americans by colonial settlers and their descendants of course provides a further and continuing example of what Lisa Miller has called 'racialised state failure' in the United States (Miller 2016). In this section of the paper, we focus on the interaction between the history and politics of race and the politics of immigration from the late 19th century.

central Europe and Russian Jews, leading to the massive northern internal migration of about six million African Americans from the South over the 1920 to 1970 period to meet the huge industrial demand for semi-skilled labor. But why did they become ‘truly disadvantaged’ (Wilson 1987) in the northern cities, when the second generation of previous immigrant waves to those cities had become relatively integrated? We conclude tentatively and again ironically that the answer lies in the ‘two region’ solution adopted by the American political economy. Southern state governments – absolved from industrialisation, and able to reinstitute forms of radical racial oppression even after the abolition of slavery (Aaronson 2014) – prevented the education and development of political leadership of southern African-Americans which would have been necessary – once they moved north from the 1920s on – to underwrite second generation integration in the northern cities. We finish with a contrast with the centralised polity of New Zealand (also a liberal market economy with a liberal welfare state and a competitive political system), with Māori people representing a broadly similar proportion of the population and with a similar migration into Auckland also employment-demand driven, but with quite different results as far as violent crime and punishment were concerned.

We stress the tentative nature of much our argument in a paper designed to provoke discussion. Our justification is that we see these directions as useful in embedding crime and punishment into a more general political-economic framework.

## **1 Modern Political-Economic Institutions and the History of Industrialisation in the US and Europe**

### **1.1 Modernisation and the centralization of state power in (most) advanced economies**

Most of the modern institutional structures of the advanced economies (at least those which industrialised in the later 19th century) derive in significant part from the ways in which these nations were organised political-economically before industrialisation; and how governments, given those political-economic pre-conditions, shaped the institutional infrastructure which they saw as necessary for industrialisation (Cusack *et al.* 2007; Iversen & Soskice 2009).

Economic historians distinguish between three (or four) industrial revolutions corresponding to different technology regimes. The (original) ‘industrial’ revolution, based on iron and steam gave way in the middle part of the 19th century to the (much more sophisticated) ‘scientific’ revolution, based on electricity and large complex ‘Chandlerian’ corporations, morphing subsequently into the Fordist system: it is the ‘scientific’ revolution which precipitated major institutional change by governments – including change of government structures. And – as

discussed below – when Fordism collapsed in the 1970s and 1980s, advanced economies painfully and partially conflictually absorbed the ‘information’ revolution based on Information and Communication Technologies (ICT).

The ‘scientific’ revolution (in contrast to the ‘industrial’ revolution) required a great range of infrastructural rules and institutions. In the UK and Germany (and the other industrialising countries apart from the US), in the context of creation of the great range of public/club goods required for ever more sophisticated industrialisation, the second half (or last third) of the 19th century saw a consolidation of power by national governments. This consolidation was based on disciplined national parties (nationally-based *Interessenparteien* in Germany; a two party system in Britain) and the creation of effective ministries so as to foster control over conservative forces of reaction opposed to public goods necessary for industrialisation. A particularly important focus for such opposition was compulsory education, which existing elites would have to pay for and which would enable agricultural workers – whose labour was crucial to those elites’ power – to leave for industrial jobs, with significant implications for the balance of not only the economy but political and social power. Hence the newly centralising political system created rafts of legislation covering finance, accounting, transport, labour, a wide range of standards, police/security, sanitation, education. And – crucially from the point of view of our comparison with the US – this included in the UK the establishment of national top-down control from Westminster over municipalities, and in the ‘negotiated’ political systems of Western Europe such as Germany the institutionalisation of consensus decision-making between national governments, and regional and local governments.

### **1.2 The distinctive American path: modernization without centralization**

By contrast, the US – via presidential choices in the Republican Ascendancy from the 1870s on, in cooperation with presidential appointments to the Supreme Court – went in the opposite direction. Moreover it did so in spite of the fact that the Republican ascendancy was just as concerned to industrialise and therefore faced, and needed to solve, similar problems about how to create public goods and to foster incentives for their sustenance over time. But they confronted this task under very different institutional preconditions to those in Europe (and Canada and Australia). The key and distinctive features of the relevant US political-economic history are as follows:

1 *A two-region solution*: The core conservative opposition to industrialisation was in the southern states, but – instead of removing the conservative opposition to industrialisation in the South – Presidents saw this as too costly, for at least two reasons:

First, southern states were well organised in a relatively centralised way, at least at state level, and were bitterly opposed to industrialisation, which would have eliminated cheap black labour; would have led to increased education of the black population; and – yet more threatening to white elites – to their political organisation. Given the failure of northern-imposed reconstruction by the early 1870s, direct conflict with the South was not an attractive proposition.

Moreover, southern states were not necessary for the industrialisation project (and so long as the South accepted common US manufacturing tariffs – to protect developing northern industries against European competition<sup>4</sup> – they would be forced to buy northern goods).

Hence the South remained outside the industrialisation project, and the North had no economic reason to impose proper education of Black Americans on southern states.

In effect, as Gerstle (2015) implies, it paid to leave the South alone (and focus on industrialisation only in the North) not only because the southern states were relatively well-organised politically and highly opposed to industrialisation, *but also* because the Constitution would have rendered unconstitutional interventions in the South in the non-enumerated areas – e.g. education – where the South wanted different policies to the northern municipalities, implying intense political and even potentially military conflict. The solution was not to force the southern states to industrialise (potentially accepting large factories and raising educational standards of black people, or – worse from the point of view of southern elites – their political organisation); but rather simply to require that they accept tariff barriers and hence buy manufactured goods from the North.

Note further that this settlement implied that – in contrast to the UK, which neutered Lords' opposition with reform legislation such as that of 1867 and 1884 – the US did not eliminate conservative opposition in the 19th century: rather, it contained it within a particular region.

*2 Local autonomy for education:* The Presidency saw that (leaving aside down-trodden agricultural workers) northern cities and counties had strong autonomous incentives to develop universal elementary (and later high-school) education (Lindert & Williamson 2016), for at least two reasons:

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<sup>4</sup> Ironically from the later perspective of the Washington Consensus.

First, given flexible labour markets, education was key to income levels as far as local median voters were concerned.

Second, municipalities needed (at least semi) educated workforces to attract large corporations.

Hence the education system in the US developed as a locally autonomous system based on local democratic choice and produced generally effective education (at least outside the South). (And in any case, as pointed out above, the Presidency had no constitutional powers to impose universal elementary education.)

*3 Autonomy for municipalities and counties:* The absence of effective federal bureaucracies covering the US implied a major role for municipalities, especially large ones; in most of the northern states in the 19th century, municipalities were significantly more important administratively than the states (see e.g. Novak (1996) for evidence in relation to policing powers being given by state governments to cities); in Novak's words, '[i]n contrast to the modern ideal of the state as a centralised bureaucracy, the [prevailing 19th century US conception of the] well -regulated society emphasised local control and autonomy' (Novak 1996: 237). This reflected the historical origins, in much of the Northern US, of government being based in cities.

As argued by Richard Bense (2000), key to the dynamics favouring a *de facto* grant of major autonomy to big cities in the interests of industrial development was that the Supreme Court could impose the Interstate Commerce clause, suitably interpreted, so that local areas, and indeed big cities, did not put up local tariffs and controls on competition.

*Therefore* – and this seems critical for American industrialisation – big cities had to attract large corporations (who could bring wealth and employment) by providing labour forces which were educated and non-unionised. Cities further took on the role of educating the necessary migrant inflows in the 19th century and guaranteeing to the corporations that unionisations and strikes would be controlled by the city in exchange for migrant votes (see also Gerstle 2015).

Police powers were, of course, given to states in the Constitution; but *de facto* they were passed on in large part to municipalities (and counties) by states. Hence the notion of state power as devoted to 'the people's welfare' and the incipient development of something approaching a welfare state in the period before the civil war, decisively gave way to a system

based on individual rights and adversarial legalism after it (Novak 1996). The states had relatively weak administrative capacity *ab initio*, with state politicians from powerful cities not prepared to cede it to them: the location of state capitals in small towns represented an attempt to spread power in this context of city (and to some extent county) primacy.

4 *Significant autonomy was given to Chandlerian giant corporations* to create internally the public goods (accounting, logistics, marketing systems, research). In Europe (including Britain), by contrast, nation states played a much greater role in developing the infrastructure necessary for industrialisation. Indeed the federal government simply lacked the institutional and legal capacity to develop such infrastructure, at least until the mid 20th century: as Gerstle (2015) argues, the Constitution implied that central, national power had to be exercised by subterfuge via strategies such as exemption from constitutional restraint, surrogate delegation of responsibility, or privatisation/action through contracting out of what in other systems would be seen as core governmental functions, creating in effect a hybrid public/ private governance structure. No wonder that the US encountered special difficulties in crafting, let alone enforcing, centralised policies of redistribution or capacity-building able to tackle the instantiation of radical levels of inequality in first two thirds of the 19th century (Lindert & Williamson 2016).

Bensel (2000) argues that the Supreme Court, loaded with judicial appointments (under the Republican Ascendancy) from the highly successful railroad operations, understood the possibility of great economies of scale and scope from giant corporations if they had freedom to dominate markets. This led to sophisticated Court interpretations of the Clayton and Sherman anti-monopoly legislation, with the President using breakup powers only when companies failed to develop the desired economies of scale and scope. In effect, the Republican Ascendancy Presidency used the Supreme Court to deploy the Interstate Commerce clause to prevent protectionist behaviour by states or cities; and also to take away powers from federal as well as state and city levels to regulate industrial relations (and allow it to become object of legislation). This then forced cities to compete for the giant corporations and mould labour markets to their requirements.

5 *The 'deal' for cities*: The incentive structure for party bosses in big cities was broadly then to absorb immigrants, in the 1880s to 1910s and early 1920s (largely from Southern Europe, especially Calabria, from Eastern Europe and Russia, especially Jews); this was the second wave of 19th-century immigration (after the earlier first-wave English, Irish, Germans and Scandinavians). The city bosses wanted large companies to bring prosperity to the cities, raising the price of property and creating employment. As the immigrants moved in, they either had political leadership or organisation from their homeland, or joined in already partially established migrant groups; and implicit bargains were struck between their leaders (or organisers) and city bosses (within the so-called 'Tammany Hall' system), exchanging

employment and education for their votes. The assumption is that they had some political organisation or political leadership (Catholic priests and Rabbis for example) with whom the city bosses had to negotiate with. (We will argue that this deal was not fully available to African-Americans who migrated north from 1916 through 1970 to fill the manufacturing demand for labour when European migration slowed.)

*This leads us to propose a 'radical' hypothesis:* Given the huge investments these corporations made, they needed to feel protected by the political system; hence the ability to invest in politicians at all levels was of great importance. (From this perspective, a reasonable hypothesis would be that British companies – who could not invest in politicians because individual politicians had no significant influence – were less prepared to make massive long-term investments in same way as giant US corporations: further work is needed to pin down this assessment, though it is supported by our research so far.) Moreover, cities, given their major role in policy-making, wanted protection from the broader federal and state political system.

*6 Hence: The party system remained undisciplined and non-federal:* indeed, this whole system described above worked precisely because there was not a disciplined federal party system. Rather, the party system in America (Gerstle 2015: Chapter 5), while operating within a national framework and being fostered by federal governments, concentrated its organisation and power at the local level, operating through complex local party machines and systems of patronage run from city halls. The US system ensured that both cities and corporations could be adequately represented in Congress; and given their role, some representation of this sort was necessary (just as, conversely, it was not necessary in the UK or other European nation states).

Points 2, 3, 4 and 5 explain this last, sixth point: in other words it is not that the system reflected individual unorganised voters, but that the party system being decentralised, power in Congress itself reflected local interests. The major corporations and big cities needed representation at state and federal level and they gained it, *de facto*, through the locally elected representatives in Congress. This implied that the political system reflected *interests* that were distributed in uncoordinated ways. In Germany, the giant corporations of the late 19th century were protected (more or less explicitly) by the Imperial and Land governments; in the UK they were not, and the unions were able to stymie the growth of giant research-oriented companies (ICI and Unilever were the exceptions which did not rely on unionised workforces).

In short: the US political-economic system was fundamentally different from the political systems of the UK and of Northern Europe in key ways: negatively, in terms of the absence

of highly disciplined political parties driving national policy; positively, in terms of the power vested in localities and in corporations as drivers of economic development. Crucially, note that while these differences are decisively shaped by the history and politics of race, notably by the legacy of the civil war and of slavery, which shaped the political and cultural world of the South, and fostered the regionally bifurcated equilibrium, in terms of both politics and economy, which emerged, local autonomy in the US was not driven by race in the simple or causally proximate way which is sometimes suggested. Decentralisation was indirectly tied to race, but race was mediated by class/political economy, and vice versa, in that it was the racial politics of the South which pushed industrialisation north.

## **2 Modern Governmental Institutions and the History of Criminal Justice Modernisation in the US and in England and Wales**

In the first section, we set out the key ways in which the economic and political systems of the United States developed in very different ways from those of the United Kingdom and of Northern European countries. In each of these countries, the 19th century saw a gradual process of state-building which broadly conformed with a Weberian vision of modernisation via centralisation, professionalisation and the construction of governmental bureaucracies. In the US, by contrast, this process of state-building remained incomplete (Dale 2011), in an outcome which embedded an exceptionally large amount of power – both public and private – at the local level. In this section, we move on to consider the specific ways in which this political-economic history shaped, both directly and indirectly, the development of the criminal justice institutions which have come to deliver such exceptional levels of punishment. Moreover, we will suggest in section 2.4 that the parallel and equally distinctive trajectory of American criminal justice both reflected, and fostered, a distinctive set of attitudes relating to popular sovereignty and to the legitimacy of state authority which have had a key role in producing American patterns of crime and punishment.

Accounts of the development of criminal justice institutions in the United States from the colonial era up to the 20th century (Dale 2011; Friedman 1993; Walker 1998) present a trajectory which is, superficially, similar to that of the United Kingdom. To paint with very broad brush strokes: in both countries, criminal justice before the 19th century was a largely local and a significantly lay affair, administered by local officials and enforced in a context of dense normative systems of social control rooted in, variously, churches, family structures, structures of landowning and the, more or less extreme, disciplinary power over agricultural and domestic workers which these structures entailed. Following the revolution and establishment of the independent Republic in 1789, the constitutional settlement was interpreted as mandating only limited federal criminalisation powers. Scholars differ as to how

determinate the Constitution itself was on this point, with Novak (1996) in particular emphasising that the conception of government as existing to assure the public welfare which prevailed in the early decades of the Republic embodied a form of welfarism which might have underpinned a very different trajectory, but which was undermined by the move towards a more rights-based, legalistic conception of government implicit in the constitutional resettlement which followed the Civil War. But the fact is that neither in the early decades of the Republic nor in the period of Reconstruction after the Civil War did there exist a coalition with the interest or capacity to reshape that original allocation of police powers to states in such a way as to facilitate the development of central governmental institutions of the kind which were emerging in Europe.

Nonetheless, during the 19th century, at somewhat different paces, and in the US case, significantly shaped by the conflicts which led up to and followed the Civil War in mid-century (Aaronson 2014), both countries saw important developments which conform to a standard picture of modernisation in criminal justice: the development of police forces; the emergence of the prison conceived as a humane and rationally organised institution geared to reform (with the early, though regionally very specific, American penitentiary movement famously attracting the admiration of European visitors; Garland 2019); a more organised system and hierarchy of courts, assisted in part by the emergence of a more organised and numerous legal profession. But beneath this apparent similarity, there remained deep differences. The enduring differences which have attracted most scholarly analysis are, of course, the North/South divide, slavery and post-slavery racial politics; and the persistence of the institution of capital punishment. We return to the question of race and region in the third section of the paper. In this section, we will leave aside the well studied terrain of capital punishment (Garland 2010; Steiker 2002; Steiker & Steiker 2016) in order to concentrate on three key areas in which the differences between the criminal justice institutions of the US on the one hand and of England and Wales on the other can be directly related to the different trajectories of their political economies. There are, first, the development of the police; second, arrangements for decisions on and conduct of prosecutions; and third, the role of popular justice.

## **2.1 The Police**

In both England and Wales and the United States, the institution of a public police force was a highly controversial matter in the early 19th century, evoking as it did models of centralised state power which were associated, albeit in somewhat different ways, with tyrannical government. As is well known, Robert Peel's creation of the Metropolitan Police was premised on the idea of a highly disciplined, professional personnel; and whether or not the early force entirely conformed to this model, the gradual expansion and development towards a nation-wide police force conformed to the idea of an independent force seen as a

professional rather than a political organisation. Of course, the structure of the American polity implied that the emergence of policing would be decentralised. Equally significantly, although the development of police forces in the middle of the 19th century at both state and city levels was often based, in aspiration, on the Peel model, what emerged was something entirely different: forces which were staffed not by men who saw themselves as joining an emerging profession, but rather men who were recruited by local officials; who enjoyed no job security because their positions might be swept away by the outcome of the next electoral context at the relevant city, county or state level; who mostly did not wear uniforms which identified them as public servants. As Friedman in particular has emphasised (1993: Chapters 3 & 7), this implied that the police were in effect an arm of local government, a tool of local political interests, vulnerable to the sway of political power, and to the temptations of various forms of corruption. Perhaps the most spectacular example of this would be the well known case of the New York Police Department during the era of local machine politics, with policing in significant part funded by informal systems of charging for licences, exemptions and services, and the police very much in the service of local politicians and in effect part of the ‘Tammany Hall’ patronage system. Despite efforts to further professionalise the police throughout the latter part of the 19th century, these important institutional differences persisted well into the 20th century, albeit subject to the local variations which are a key feature of the American case. Even amid the reforms of the Progressive era of the early 20th century, local political control rather than professional autonomy was the dominant characteristic of policing (Walker 1998: Chapter 4).

## 2.2 Prosecution

At the start of the 19th century, prosecution in both England and Wales and in the United States was in lay hands, initiated by private citizens with the assistance of local, lay officials such as justices, constables and sherrifs, mediated by the deliberations of grand juries and sometimes facilitated by the existence of private collective arrangements such as prosecution associations. In England and Wales, though the grand jury survived into the 20th century, its significance declined. The gradual development of a nation-wide police force transferred much of the responsibility for decision-making and preparation of prosecutions to the police, with the cases handled, in the more serious cases – in which lawyers were increasingly involved – by ordinary lawyers engaged by the police or, in the case of private prosecutions, the victim. In the US, however, there was a key institutional innovation which was to turn out hugely consequential for the development of American criminal justice over the next 150 years. This was the invention in the early decades of the 19th century of the public prosecutor (Ellis 2012; Friedman 1993: 29–30; Walker 1983: 29, 70–71): a public official, like prosecutors in Northern European systems; but locally based, as in England and Wales. But in the mid 19th century, one key feature of many states’ institutionalisation of district attorneys developed in an entirely different way from either English or European systems. In the years after the Revolution, most states provided for the appointment of prosecutors by judges, governors or legislators. But concerns gradually emerged about the vulnerability of appointed

prosecutors to the sway of political patronage, and between 1832 and 1861 almost three quarters of states moved to a system of elected rather than appointed prosecutors. The aim – somewhat ironically given what we know about the behavior of prosecutors today – was to guarantee their political independence. As a result of the extraordinarily dense system of electoral democracy which the US political economy had spawned, they were of course elected at the local level. Hence, even more directly than the police, they became part of the state and local political systems: subject to the sway of electoral discipline at local level and, contrary to the intentions of the reformers, very much subject to political influence broadly conceived. With what is arguably the single most important official filter for criminalisation exposed to the power of popular opinion in such a disaggregated way, any potential capacity to shape a coherent national criminal justice system was undermined, and even that to do so at the level of states compromised. The importance of the sway of local electoral politics on prosecution decision making to this day is reflected in Pfaff's recent (2017) conclusion that a move from election to appointment of prosecutors is the single most important reform in terms of potential to dismantle mass imprisonment.

### 2.3 Lay Justice

A third key difference between 19th century developments in English and American criminal justice lies in the degree to which social control continued to be exerted by practices of private or popular justice (Dale 2011). It is important not to exaggerate this: historians have shown that, even in the relatively centralised British system, practices of local shaming such as 'rough music' persisted, particularly in rural areas, right up to the late 19th century (Conley 1991). And, of course, diffused internalised norms and a range of private institutions remain, in all countries, more centrally important to compliance and social order than the sanctioning practice of formal criminal justice, partial, patchy and sometimes counter-productive as they inevitably are. Petty juries, too, remained central features of each system. Nonetheless, there is strong evidence that a continued reliance on – and attachment to – popular sovereignty in the delivery of criminal justice in the US remained at a distinctively high level, with significant implications in terms of an incomplete process of modernisation, systematisation, legalisation and even pacification.

Arguably, the sway of public/private hybrid roles such as elected local justices, sherrifs and constables, along with the slow and still at the end of the 19th century incomplete professionalisation of the police, itself implied a large element of 'lay' justice at the heart of even state criminal justice, as indeed did the continued role of lay decision-makers in criminal cases – something which of course was a feature of both countries' systems. But a range of other accepted practices and organisations in the United States finds no clear parallel in England and Wales. With weak policing in many parts of the country, private militias remained an important residual tool of *de facto* public control throughout the century, implying

state and local governmental authorities' reliance on popular sentiment and support among the relevant groups (Dale 2011; Walker 1983). (The link with today's continuing attachment to gun rights is of course significant in this context.) Mobbing and rioting continued in many parts of the country as a form of 'law and order' intervention to a degree more analogous with 18th than with 19th century England; while the horrifying practices of lynching implied vivid limits to state and legal standards of criminalisation well into the 20th century. Equally significantly, the creation of vigilance committees, which asserted to themselves the right of 'law' enforcement in many areas of the country, and which persisted throughout the 19th and into the 20th century (Friedman 1993: Chapter 8; Walker 1998: Chapter 2) betoken a lack not merely of centralisation but of standardisation and of institutionalisation of the rule of law which finds no parallel in the UK or North European countries. Echoing Gerstle's (2015) and Brown's (2016) diagnosis of a system which relies on privatisation to deliver governmental functions, the criminal justice 'systems' of late 19th century America amounted to a public/private system – a hotch potch of public yet politicised, professional yet not centralised, private and uncoordinated, or hybrid organisations, implying radical local variation in both institutional structure and outcome.

Perhaps one of the most telling examples here is that of an institution which both systems shared: the trial (petty) jury. In England and Wales, by the 19th century it was already widely accepted that the jury was the trier of fact and not of law: and while the continued secrecy of jury verdicts makes it hard to assess the extent to which jurors use their discretion to resist what they saw, or see, as unfair or otherwise inappropriate convictions or acquittals, the characterisation of verdicts 'against the facts' as 'perverse' implies a view of this residual power as a corruption of justice rather than an accepted institutional mechanism. In the US, by contrast, a vigorous assertion of the jury's right to exercise its prerogative of 'nullification' of unjust verdicts (Dale 2011: Chapters 3 & 5) persists to this day, a powerful symbol of a continued attachment to popular standards as the ultimate arbiter of criminal justice and a leveler of state power. That the fact/law distinction is a contestable one does not undermine the important difference in attitudes to jurors' muscular use of their discretion in the two countries.

## **2.4 Mentalities**

It is not difficult to see how the fragmented and significantly privatised trajectory of the US political economy in the decades of industrialisation would have conduced to this similarly decentralised and public/private structure of criminal justice. But a further and interesting question arises about the political mentalities which these associated institutional structures both reflected and reinforced. As many historians have noted (e.g. Gerstle 2015), American Republicanism has been shaped by a strong attachment to freedom and a suspicion of centralised power which has as its correlate a strong attachment to popular sovereignty and to the development of institutions which are highly responsive. In this context, Roth's (2009;

2018) fascinating and magisterial study of patterns of homicide is instructive. Over the whole sweep of American history, and on the basis of a meticulous analysis of a range of sources, Roth finds that the level of homicide is positively related to periods of high social conflict and to low levels of trust in government and faith in strong national identity. These striking correlations raise important questions about the extent to which American polity and society has been able to sustain levels of informal social norms and mechanisms of informal social control on the same sort of level as other countries with more central and, especially, coordinated systems (Garland 2017; 2019). This in turn invites the thought that there is a strong correlation between not just two but three features of the US social landscape; the institutional structure of political economy and of criminal justice; the informal institutions of social control; and social mentalities in relation to state and, in particular, federal state power.

Much of the contemporary scholarship on American exceptionalism in crime and punishment is, understandably, preoccupied by the impact of the belated entry of the federal government into a more concerted national state-building effort in the middle decades of the 20th century, and of the implications for federal involvement in crime control of the programmes associated with both the New Deal under President Roosevelt and of the Great Society under President Johnson (Gottschalk 2006; Schoenfeld 2018). This scholarship argues that the federal resources devoted crime control during this period – much of it, of course, taking the form of grants to states, creating decentralised resources many of which were further delegated to the local level (Feeley & Sarat 1980; Lacey & Soskice 2018: 81–85) – created the infrastructure which facilitated the build-up of mass imprisonment from the 1970s on. This argument is persuasive, and we do not dispute it. But it does not in itself explain the incentives for that build-up, or how it was delivered in large part by decision-making at local as much as state level. Our argument, in other words, is that this accretion of capacity, prompted and funded in significant part by the federal government, was a condition, but not a moving cause of the acceleration of American exceptionalism in criminal justice outcomes after 1970.

### **3 The History and Politics of Race**

In this section, we consider how far the distinctive – and associated - historical trajectories of political economy and criminal justice in the United States can account for the contemporary gross racial disproportionality in patterns of crime, criminal victimisation and punishment – and how far the history and politics of race have in themselves shaped America's political and criminal justice trajectory. Race and racism have long occupied a central place in explanations of distinctive American patterns of crime and, especially, punishment (Bennett 2015; Simon 2017; Tonry 2011), as indeed of social organisation more generally (Katznelson 1973; 1981; Lieberman 1980; Massey & Denton 1993; Sampson *et al.* 2018; Schneider & Turney 2015; Wilson 1987). And recently, a striking argument has placed race at the heart of the explanation of the prison buildup, suggesting that mass imprisonment is in effect an

analogue of the vicious ‘Jim Crow’ system geared to perpetuating the structural exclusion of Black Americans from full citizenship in the first half of the 20th century (Alexander 2012; cf. Schoenfeld 2018). In this section, while acknowledging that it would be foolish to deny that the history and politics of race have been key contributors to America’s distinctive patterns of crime and punishment, we suggest that our historical and comparative analysis undermines the suggestion that race is the primary, let alone the exclusive, explanation for American exceptionalism in crime and punishment. We argue, moreover, that the impact of race has itself been decisively shaped by the dynamics of local autonomy which emerged from America’s distinctive political and economic history – itself indirectly but importantly shaped by race.

While the over-representation of certain demographic groups, notably young black men, is a marked phenomenon in the criminal justice systems of many countries, with the disproportion in England and Wales, for example, corresponding to that in the United States (Tonry 2014). But the much larger population of African Americans in the United States than of Black Britons in the United Kingdom entails a more noticeable impact on overall prison numbers, as well as a larger social and political problem in absolute terms: on Bureau of Justice Statistics from 2018, if people of all races and ethnic origins were incarcerated at the same rate as white people, the number of sentenced male prisoners would be reduced by approximately 52.7%, from 1,353,850 to 640,075. Despite drops in US prison rates between 2010 and 2016 and some reduction in racial disparities, these remain very stark: in 2016 the national imprisonment rate for males was 848 per 100,000; 401 for white males; 1,093 for Hispanic males; and 2,417 for black males (Bureau of Justice Statistics 2018: 15). These factors, it might be argued, are in themselves sufficient to lead us to expect that the United States would display especially acute penal severity. Moreover, the War on Drugs has undoubtedly accentuated the racially skewed patterns of law enforcement since the 1980s, not least because of the use of drug arrests as ‘proxies’ for enforcement of more serious offenses that present greater problems of proof (Stuntz 2011).

But, as James Forman (2012; 2017) has persuasively argued, an explanation founded wholly in racial exclusion encounters significant difficulties. It struggles to explain the class aspects of racial patterns of crime and punishment, with mass imprisonment, unlike Jim Crow, leaving a substantial black middle class virtually untouched and, conversely, having a significant impact on poor whites and Hispanics: see also Gottschalk 2015: Chapters 6 & 7. It also fails to explain black political support for tough crime policies, as witnessed by policy choices in the black-majority jurisdiction of Washington, DC (Forman 2012: 38–44); or the role of violent crime – in which Black Americans are disproportionately both victims and offenders – in moving crime up the political agenda from the mid-1960s.

A historical analysis reinforces the call of scholars like Forman and Gottschalk for a more nuanced and indeed pluralist interpretation. In arguing that race has not been the sole or overriding cause of mass incarceration or of racial disproportionality in criminalisation and in criminal victimisation in America, we are not arguing that the history and politics of race do not have large and continuing effects. The stark facts of racial inequality in the United States, as graphically charted by scholars like Wilson (1987), Massey & Denton (1993), Loury (2003), Western (2006), Lerman & Weaver (2014), Alexander (2012), and Schoenfeld (2018) are clearly direct and indirect consequences of southern racism in (and before) the 19th century (Aaronson 2014; Charles 2006: Chapter 6), exacerbated by the two-region political settlement after the Civil War which locked those consequences in place even after slavery's demise. The US is undoubtedly still living with the continuing echoes of slavery, of the Jim Crow regime which replaced it, and of a host of associated institutional arrangements, notably in relation to policing (Muller 2012) and to residential segregation (Smith 2012; Trounstein 2018). Differing age demographics between racial groups may also have had some impact (Campbell & Vogel 2019). Moreover the continuing existence of racist attitudes – which persist of course not just in the United States but also in the United Kingdom and in New Zealand, to take just two broadly comparable cases – have been thrown into ever greater relief, particularly for a white public, in the political context of the Trump era and thanks to the efforts of social movements such as Black Lives Matter.

But the echoes of baleful historical forces have been amplified by the fragmented structure of the American political system. Continuing segregation, particularly in the industrial cities of the Northeast and Midwest, along with the lack of any real educational escape for the truly disadvantaged, have been consequences of local median voters' choices under conditions of radical local autonomy (Sampson 2019; Sampson *et al.* 2018; Trounstein 2018). And this has been exacerbated by the social disorganisation attendant on the demographic implications of mass migration and, later, the gradual exit, whether to suburbs or to contiguous areas (Pattillo-McCoy 1999), of a sizeable number of the black middle class (Wilson 1987). In addition, the 'centrifugal' (Gerstle 2015: 154–5) dynamics set up by local autonomy have driven demographic divisions within as well as between racial groups (Charles 2006), just as they have given local black political leaders disincentives to combat segregation (Massey & Denton 1993: 153–60, 213–15). Once divisions of disadvantage become mapped onto space, the possibilities of reversal – notably through educational achievement – steadily diminish. And these local institutional arrangements that have, often through zoning, fostered the spatial concentration of disadvantage crucially predate the great migrations of Black Americans of the early and mid-20th century.

The resulting tragedy of entrenched segregation did not happen on the same scale in systems where policing, planning, and education policy are developed at the national level. For example, the degree of racial residential segregation in America has been shown to be substantially higher than that in the United Kingdom, Australia, or New Zealand (Johnston *et*

*al.* 2005: Figure 4; 2007). This can hardly be thought to be because other Anglo-Saxon countries are strangers to racism or indeed to discriminatory public policy. The United Kingdom introduced an implicitly color-based 'nationality' (i.e. immigration) act in 1971 and comprehensive race discrimination legislation only in 1976, 12 years after the Civil Rights Act. Australia abolished the last elements of the white Australia immigration policy which had prevailed since the beginning of the 20th century only in 1973. Recent spikes in hate crime and other manifestations of racism in the wake of the 2016 referendum on the UK's membership of the EU, the findings of racial disproportion across the criminal justice system of the Lammy Review (Lammy 2017), as well as scandals such as the exposure of the appalling treatment of members of the 'Windrush Generation' by the UK Border Agency, confirm the persistence of virulent forms of discrimination based on race. But, even post-devolution, the centralisation of criminal justice powers to Westminster and Holyrood allows these issues to be addressed at a national level, and control of not only criminal justice but also housing and education policy remains at national level; and our argument is that this long term difference helps to explain the fact that penal disproportionality has not been accompanied, as it has in the US, by an incontinent explosion of imprisonment and other forms of penal control, nor by a comparable explosion of violence. Perhaps most striking of all, New Zealand, whose Māori and Polynesian populations are roughly comparable to the black American population in terms of both proportionate size and historic, social and economic disadvantage and are overrepresented in the prison population to a similar degree (Department of Corrections 2007), had an explicitly white New Zealand immigration policy until 1986. While never subjected to slavery, the Māori people were expropriated by British colonialism and struggled for over a century for compensation and proper recognition of their culture. Yet Māori and other minority peoples have been integrated into the cities in which they are most populous, notably Auckland, about twice as completely (in terms of residential segregation) as African-Americans.

In America's radically decentralised system, it has proved impossible to frame and find consistent support for political strategies to combat segregation; and at various points, notably the 1930s, it must be admitted that racially motivated federal policies, such as the discriminatory rules about mortgage eligibility, made things even worse. Hence racial disadvantage has continued to accumulate, and to radiate out from the criminal justice system to produce very wide highly inequalitarian social effects (Lee *et al.* 2015; Western 2006). Indeed, one might even say that it is not primarily racial dynamics which today cause segregation but rather the segregation-promoting dynamic of local politics that consolidates the problem of black and Hispanic disadvantage. American localism cannot be argued to have been motivated directly by racism; but the long history of racism in the United States was a key indirect driver of the localism which today consolidates racial disadvantage. For the persistence of segregation and racial disadvantage in the North is indeed a consequence of the path to industrialisation via the two-region solution, which left black people to their fate in the South, and placed reliance on mechanisms of industrial development in the North which

depended on local autonomy and control, as well as on trade with the non-industrialised South.

Local autonomy has been a key element in the government of the United States since the early 19th century, at least outside the southern states. Moreover, as we saw in the first section of this paper, the local autonomy of cities and townships was critical in driving economic development outside the South. This contrasted with the push in the United Kingdom and its settler colonies toward centralisation. Equally, the system of ethnic segregation of migrants in the North and the Midwest long predates the Black Migration (Katznelson 1981). But earlier migrants had significantly higher education (Lieberson 1980: 123–199) and more developed institutions of social organisation: the Irish, Poles, and Italians had the hierarchical Roman Catholic Church; Germans and Swedes brought a strong tradition of local associational organisation with them to the United States (Lieberson 1980: 19–99). These traditions and forms of association in turn made it relatively easy for ‘city hall’ governments to incorporate them into employment and the education system. These groups accordingly found it easier to find a position within the system of ‘city trenches’ which formed the 19th-century system of local government in the United States and were gradually integrated in both residential and employment terms. But a key drawback emerged in the form of the movement aiming to reform the ‘Tammany Hall’ system – a movement which was hostile to the coalition and integration/education deal between city bosses and second wave immigrants. This then led to political pressure to close immigration in early 1920s. With the combination of the reform movement and the closure of immigration, the Northern factories – ironically – came to rely on black migration from the South; but this did not translate into the incorporation of black migrants into Northern local government as it had in relation to earlier migrant groups. The accumulated deficits attendant on Southern proscription of education and political organization, as well as continuing racism in the north, had a deleterious effect on black American progress: the gradual demise of the ‘Tammany Hall’ system up to the 1940s did not help. And, as Katznelson (1981) has charted, after the breakdown of city trenches, continuing black segregation made it hard for the black Americans to find stable positions in local government; and, as a further complicating factor, in so far as black local politicians had stable power bases, this often depended on residential segregation, hence compromising their commitment to measures to combat segregation (Douglas 2005; Massey & Denton 1993; Pattillo 2007).

The legacy of both slavery and the governmental structure of the South right through to the end of the Jim Crow era accordingly had two effects which are of special importance in explaining why it turned out to be so difficult to achieve real integration of black Americans, particularly in the cities of the North and Midwest. First, the southern regime impeded the development of any political structuring of black society – a fact which had significant long-term implications for social disorganisation. And second, the southern regime restricted the educational development of black people. We argue that it is these features, rather than, as

Wilson (1987) suggests, the sheer size of the Black Migration, which have had such damaging implications for the chances of black integration in the North. This historical legacy was then magnified by the dynamics set up by strong local autonomy and weak national capacity for policy development and implementation. The collapse of Fordism happened at a disastrous time vis-à-vis black integration, and local autonomy made things decisively worse by allowing the median voter to zone poverty and disadvantage spatially and educationally. This set up a polarising dynamic in which the more advantaged have an interest in, and, given local autonomy, the power to, separate themselves ever more completely – spatially, culturally, educationally, economically – from the disadvantaged. Since Black and Hispanic Americans are markedly overrepresented among the disadvantaged, they suffer especially from these dynamics. In this light, mass imprisonment looks dispiritingly like the extreme policy manifestation of a much more widespread institutional (as well as social) dynamic. Pattillo-McCoy's (1999) refinement of Wilson's (1987) thesis about outmigration of the black middle class – often into liminal areas between white suburbs and inner city – reinforces the idea that they too would have been more affected than the white middle class by the collapse of Fordism.

The key problem therefore lies in the local political institutions that have driven and sustained socioeconomic segregation and in doing so subverted not only the ideals of the Civil Rights Movement but any real prospect of alleviating poverty and disadvantage in the absence of state or federal initiatives. In the face of these dynamics, the main tools for national policymaking and for the implementation of national policy at the local level – the provision of federal grants to localities, the institution of regulatory agencies to produce and/or monitor standards, and the enforcement of constitutional standards in the courts – have proved weak or even impotent. Local administration of federal grants subjects federal policy to local political dynamics. Regulatory agencies tend to be weak and have in any event become less salient in the wake of the 'new federalism' (Feeley & Sarat 1980) and of budget cuts. And litigation is protracted, expensive, divisive, uneven in its impact, poorly adapted to tackle broad issues of policy or principle reaching beyond the specific case, and unhelpfully trained on issues of process rather than issues of substance (Kagan 2001). In this context, even criminalisation of forms of discrimination often operates merely as symbolic politics, diverting attention from, and having little power to address structural causes of disadvantage (Aronson 2014). Key examples of these pathologies of overreliance on legal enforcement include the Gautreaux litigation in Chicago and the drift in litigation challenging state public school financing systems and in particular the impact of the varying tax base on education provision (Massey & Denton 1993: 14–15, 187, 223–30, 206; cf. Pattillo 2007: 110–14; Peterson & Krivo 2010: Chapter 5). Since the *Rodriguez* case in which the US Supreme Court in effect diverted this issue to state courts, there has been a gradual shift from a concern with equity to a diluted concern to enforce an obligation merely to provide a baseline of adequate education and a reluctance to treat children in poorer school districts as victims of unequal protection or to subject local education financing to more than deferential scrutiny for the purposes of constitutional review (Nickerson & Deenihan 2003).

## 4 Conclusion

The racial justice to which the Civil Rights Movement aspires remains, alas, distant, as social outcomes in education, crime, punishment, and housing all too clearly attest. Our argument in this paper has been that the decentralisation and fragmentation of power in the American political system, and the political sway which this gives to parochial self-interest, is one important reason why that is the case; and that this decentralisation has long historical and institutional roots which depend as much on political economy as on the distinctive features of the US Constitution. In conclusion, it is perhaps worth pondering a counterfactual. Imagine, if you will, a mid-19th century equivalent of President Trump, who, instead of prosecuting a civil war, decided that the solution was to build a wall between North and South so as to foreclose northward migration – while negotiating a trade deal featuring extensive tariffs. If our argument is right, the institutional structure of the northern political economy and criminal justice system would have developed in similar ways to those they followed in America's actual history; and inequalities in crime, punishment and broader social indices such as housing and education would nonetheless have eventuated. The fate of Hispanics – migrants with unequal access to the forms of education and organisation needed to assimilate – for, as King (2000) has shown, 'integration' of migrants, where 'successful', has always been a form of assimilation – is perhaps suggestive here. For broadly political-economic reasons, the American project of nation-state building – even, of pacification – has remained, and will now remain, by the standards of other advanced economies with democratic political systems, incomplete: as Roth puts it, as compared with its closest comparators, the ironically named United States has suffered a 'failure to coalesce as a nation' (Roth 2009: 300; cf. Garland 2010; 2019). America's distinctive patterns of inequality – and of racial inequality in particular – are a tragic effect of America's distinctive and decentralised paths to modernity.

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*Notes on Contributors:* Nicola Lacey is School Professor of Law, Gender and Social Policy at the London School of Economics. David Soskice is School Professor of Political Science and Economics at the London School of Economics.