Conflict Theory

Conflict theory holds that the administration of criminal justice reflects the unequal distribution of power in society.[70] The more powerful groups use the criminal justice system to maintain their dominant position and to repress groups or social movements that threaten their position.[71] Variations on conflict theory include feminist conflict theory, race conflict theory, and economic conflict theory. Darnell Hawkins points out that conflict theory was developed primarily with reference to social class and gave relatively little attention to race and ethnicity.[72]

The most obvious example of conflict theory in action was the racial segregation era in the South (1890s–1960s), when white supremacists instituted *de jure* segregation in public schools and other public accommodations.[73] The criminal justice system was used to maintain the subordinate status of African Americans. Because African Americans were disenfranchised as voters, they had no control or influence over the justice system. The result, as described by Gunnar Myrdal in his classic study of American race relations, *An American Dilemma*, was four distinct systems of criminal justice. Crimes by whites against whites were treated as normal crimes, while crimes by whites against African Americans went unpunished. Crimes by African Americans against whites were treated extremely harshly—especially in the case of rape or even a rumor of a rape—while crimes by African Americans against African Americans often just ignored.[74] Meanwhile, outside of the South, discrimination also limited the influence of minorities over the justice system. The civil rights movement has eliminated *de jure* segregation and other blatant forms of discrimination. Nonetheless, pervasive discrimination in society and the criminal justice system continues.

Applying the Theory

Conflict theory explains the overrepresentation of racial and ethnic minorities in the criminal justice system in several ways. The criminal law singles out certain behavior engaged in primarily by the poor. Vagrancy laws are the classic example of the use of the criminal law to control the poor and other perceived "threats" to the social order. The criminal law has also been used against political movements challenging the established order: from sedition laws against unpopular ideas to disorderly conduct arrests of demonstrators.

Finally, "street crimes" that are predominantly committed by the poor and disproportionately by racial and ethnic minorities are the target of more vigorous enforcement efforts than are those crimes committed by the rich. The term *crime* refers more to robbery and burglary than to white-collar crime. In these ways, conflict theory explains the overrepresentation of racial and ethnic minorities among people arrested, convicted, and imprisoned.

Routine Activity Theory

Routine activity theory shifts the focus of attention from offenders to criminal incidents. Marcus Felson explains that the theory examines "how these incidents originate in the routine activities of everyday life."[75] Particularly important, the theory emphasizes the extent to which the daily routine creates informal social control that helps prevent crime or undermines those informal controls and leads to higher involvement in crime. Informal social control includes, for example, the watchfulness of family, friends, and neighbors. Formal social control is exercised by the police and the rest of the criminal justice system. Felson offers the example of parental supervision of teenagers. He cites data indicating that between 1940 and the 1970s, American juveniles spent an increasing amount of time away from the home with no direct parental supervision.[76]

The changes in patterns of parental supervision were rooted in the changing nature of work and family life in contemporary society (as opposed to some kind of moral failing). The new circumstances have increased the probability that young people will engage in crime. To cite an earlier example, in the 1920s many people were alarmed that the advent of the automobile created the opportunity for young men and women to be alone together without direct parental supervision, with a resulting increase in premarital sexual behavior.

Applying the Theory

Routine activity theory is particularly useful in explaining crime when it is integrated with other theories. If parental supervision represents an important informal social control, then family breakdown and single-parent households will involve less supervision and increase the probability of more involvement in crime. High rates of teenage unemployment will mean that more young people will have unsupervised time on their hands, and if unemployment is high in the neighborhood, they will have more association with other unemployed young people, including some who are already involved in crime.

The Limits of Current Theories

All of the theories discussed here attempt to explain the relationships among race, ethnicity, and crime in terms of social conditions. Hawkins argues that this approach represents the liberal political orientation that has dominated American sociology and criminology since the early twentieth century. He also believes that there are important limitations to this orientation. The liberal emphasis on social conditions arose out of a reaction to racist theories of biological determinism, which sought to explain high rates of crime among recent European immigrants and African Americans in terms of genetic inferiority. Herrnstein and Murray's controversial book, *The Bell Curve*, represents a recent version of this approach.[77] (See our discussion of *The Bell Curve* controversy in Chapter 1.) The liberal emphasis on social conditions, however, tends to become a form of social determinism, as criminologists focus on the social pathologies of both minority communities and lower-class communities. Although consciously avoiding biologically based stereotypes, much of the research on social conditions has the unintended effect of perpetuating a different set of stereotypes about racial and ethnic minorities.

Hawkins suggests that if we seek a comprehensive explanation of the relationships among race, ethnicity, and crime, the most promising approach will be to combine the best insights from liberal criminology regarding social conditions and conflict perspectives regarding both the administration of justice and intergroup relations.[78]

INEQUALITY AND SOCIAL REFORM

The most disturbing aspect of social inequality in America has been its persistence over 50 years despite a national effort to reduce or eliminate it. Paul E. Peterson refers to this as the "poverty paradox": the problem is not just the persistence of poverty in the richest country in the world but its persistence in the face of a major attack on it.[79]

The national effort has taken several different forms. The civil rights movement fought to eliminate racial discrimination, and several different government policies sought to create economic opportunity and eliminate poverty. In the 1960s, liberals adopted the War on Poverty and other Great Society programs. In the 1980s, conservative economic programs of reducing both taxes and government spending sought to stimulate economic growth and create job opportunities.

Not only has inequality persisted but as we discussed earlier the gap between rich and poor and between whites and minorities has also gotten worse in many respects.[80] What happened? Did all the social and economic policies of the past generation completely fail?

There are four major explanations for the persistence of inequality, poverty, and the growth of the underclass.[81] Many liberals argue that it is the result of an inadequate social welfare system. Social welfare programs in the United States are not nearly as comprehensive as those in other industrialized countries, lacking paid family leave, publicly supported child care programs, comprehensive unemployment insurance, and until the advent of the Affordable Care Act ("Obamacare"), a national health care system. Other liberals argue that it is the result of globalization, which involves the transformation of the national (and international) economy, including the shift of industrial production, with its good-paying blue-collar jobs, overseas. This process has steadily eliminated economic opportunities in the inner city and reduced earnings of many blue-collar jobs.

Many conservatives argue that the persistence of poverty is the result of a "culture of poverty" that encourages attitudes and behavior patterns that keep people from rising out of poverty.[82] Closely related to this view is the conservative argument that many government social and economic programs provide disincentives to work. These conservatives believe, for example, that the welfare system encourages people not to work and that the minimum wage causes employers to eliminate rather than create jobs.[83]

The prominent African-American social critic Cornell West argues that the traditional liberal–conservative debate on the relative importance of social structure versus individual character is unproductive. He points out that "structures and behavior are inseparable, that institutions and values go hand in hand."[84] In short, the problem of the persistence of inequality is extremely complex. The next section examines some of the major forces that have reshaped American life in the past generation and their impact on inequality.

The Impact of the Civil Rights Movement

The civil rights movement between 1945 and 1965 was one of the most important events in U.S. history. A revolution in the law ended *de jure* discrimination in public schools (the Supreme Court's landmark 1954 decision in *Brown* v. *Board of Education*) and public accommodations in the South (the 1964 Civil Rights Act), ended discrimination in voting (the 1965 Voting Rights Act), and established equality as national policy.[85] The movement inspired attacks on other forms of discrimination. Title VII of the 1964 Civil Rights Act banned employment discrimination against women. The 1990 Americans with Disabilities Act outlawed employment discrimination against people with disabilities. In 1967, the Supreme Court in *Loving* v. *Virginia* declared unconstitutional a Virginia law barring interracial marriage. A number of states and cities have banned discrimination against people on the basis of their sexual orientation.[86]

The civil rights revolution had a profound impact on the operations of every social institution, including the criminal justice system. Public schools in the South were racially integrated. Police departments began hiring African-American officers. As a result of the 1965 Voting Rights Act and the resulting greater voter participation, the number of African-American-elected officials increased dramatically nationwide, from 33 in 1941 to 1,469 in 1965 and 8,830 in 1998. The total number of Hispanic-elected officials increased from 3,174 in 1985 to 5,129 in 2007.[87]

With the development of educational and employment opportunities, African-American and Hispanic middle classes emerged, and some individuals became wealthy business owners or professionals. As we learned in our discussion of wealth, as measured by family net worth, the gap between higher-income African Americans and Hispanics and their lower-income counterparts increased in the decades of the 2000s. The gaps between white and African American and white non-Hispanic and Hispanic remain large.

The National Academy of Sciences in 1989, for example, found a large gap between middle-class and poor African Americans.[88] Not everyone agrees with this pessimistic assessment, however. In *America in Black and White: One Nation, Indivisible*, Stephan Thernstrom and Abigail Thernstrom argue that African Americans have made remarkable progress since the 1940s, economically, socially, and politically, observing that "the signs of progress are all around us."[89] Using Gunnar Myrdal's classic study of American race relations, *An American Dilemma* (1944), as their baseline, they find that the percentage of African-American families in poverty fell from 87 percent in 1940 to 21.9 percent in 2000. The number of African Americans enrolled in college increased 30-fold in the same period, increasing from 45,000 students in 1940 to 1,400,000 in the late 1990s. Contrary to Hacker's pessimistic assessment that we are "two nations" (p. 116 of this chapter), they argue that we are today less separate; less unequal; and, in their view, less hostile than was the case in 1940.[90]

Where does the truth lie? Is the United States progressing, stagnating, or regressing in terms of social and economic inequality? The answer is that there is a degree of truth in all three interpretations. It depends on which segment of the population we are talking about. We can make sense of this complex subject by examining different components and contexts.

First, it depends on what *baseline* you use. The Thernstroms use 1940 as a baseline, and few can question the amount of progress since that time, when segregation still prevailed in the South and there was much discrimination in the rest of the country. When you use the mid-1970s as your baseline, however, a very different picture emerges. African-American progress has stagnated (even the Thernstroms concede this point), and in some respects their situation has gotten worse. The real income for all working Americans has also fallen since then.[91]

Second, as we have already discussed, aggregate data for all racial and ethnic groups mask very important differences within groups. So it is important to *disaggregate the data* for each group. Among African Americans, for example, there has been the simultaneous development of a new middle class and the deteriorating status of the very poor.[92] A similar trend exists for Hispanics. Asian Americans are also divided into those who are doing well and those who are not. Among Native Americans, some individuals and entire tribes have benefited from the economic opportunities provided by the development of tribal gaming, whereas others remain mired in poverty.

Economists generally blame the economic stagnation since the 1970s on the disappearance of industrial-level jobs, particularly from the inner city, including the transfer of manufacturing plants to other countries. The economic policies of both liberal Democratic and conservative Republican presidents since the 1960s have attempted to stimulate the economy and create jobs. The major liberal Democratic effort was the War on Poverty, begun in 1965 with the Economic Opportunity Act. The federal attack on poverty and inequality also included major programs related to health care, education, Social Security, food stamps, and other forms of government assistance. The major conservative Republican effort in the 1980s involved tax cuts (e.g., Reaganomics in the 1980s, the Bush tax cuts of 2002), which seek to stimulate investment that will create jobs.

The impact of these different measures is a matter of great controversy. Conservatives argue that the War on Poverty and other liberal policies of the 1960s not only failed to eliminate poverty but actually made things worse by impeding economic growth and removing the incentives for poor people to seek employment.[93] Liberals, meanwhile, argue that Reaganomics and the Bush tax cuts increased the gap between rich and poor, benefiting the wealthy and eliminating programs for the poor.

The evidence suggests that neither liberal nor conservative policies over the years have effectively addressed the fundamental changes that have overtaken

American society. Neither policies have reduced the disappearance of manufacturing jobs or halted the increasing structural inequality in American society. The disappearance of manufacturing jobs has led to high rates of unemployment or underemployment, with all the disastrous impact of families and neighborhoods that we have discussed in this chapter.

The complex changes in the economy over the past three decades have directly affected the racial and ethnic dimensions of crime and criminal justice. The persistence of severe inequality and the growth of the underclass have created conditions conducive to high rates of crime. The different theories of crime we discussed earlier—social strain theory, differential association theory, social disorganization theory, culture conflict theory, conflict theory, and routine activity theory—all would predict high rates of crime, given the changes in the economy that have occurred. Because racial and ethnic minorities have been disadvantaged by these economic trends, these theories of crime help explain the persistently high rates of crime among minorities.

CONCLUSION

As we stated at the beginning of this chapter, if we want to understand crime in America and its relationship to race and ethnicity, it is necessary to look beyond the criminal justice system. The American social structure plays a major role in shaping patterns of crime with respect to race and ethnicity. American society is characterized by deep inequalities related to race, ethnicity, and economic status. There are enormous and growing inequalities in income, wealth, and poverty. These inequalities create conditions that are criminogenic: that is, they tend to cause people to commit crime.

The major theories of crime explain the relationship between inequality and criminal behavior. In different ways, social strain, differential association, social disorganization, culture conflict, conflict, and routine activity theories all predict higher rates of criminal behavior among the poor and racial and ethnic minorities.

DISCUSSION QUESTIONS

1. Do you agree with the Kerner Commission's conclusion that we are "moving toward two societies, one black [and] one white"? Explain your answer.
2. Explain the difference between median family income and family wealth. What does each one measure?
3. Explain how residential discrimination on the basis of race or ethnicity contributes to crime.
4. What is meant by the concepts of social capital and cultural capital? How do they affect criminal behavior?
5. What has been the impact of the civil rights movement on social and economic conditions that affect crime and criminal justice?