

# Employment and Exile: U.S. Criminal Deportations, 1908–2005<sup>1</sup>

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This study documents and explains historical variation in U.S. criminal deportations. Results from time-series analyses suggest that criminal deportations increase during times of rising unemployment, and this effect is partly mediated by an elevated discourse about immigration and labor. An especially strong association between deportations and unemployment emerges from 1941 through 1986, a period in which the federal law enforcement bureaucracy and deportation laws were well established and judges retained substantial discretion. After 1986, changes in criminal deportation rates mirror the trend in incarceration rates. The study connects the burgeoning sociological literatures on immigration and punishment, revealing a historically contingent effect of labor markets on the criminal deportation of non-citizen offenders.

As more and more U.S. citizens have been incarcerated over the past four decades and the number of noncitizens continues to rise, extensive research literatures have developed around the respective topics of criminal pun-

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ishment and immigration policy. Yet far less empirical work has arisen around a topic that connects these fields: the punishment of noncitizens and the phenomenon of criminal deportation. This dearth of research is perplexing because deportation represents a primary mechanism of social control for approximately 20 million noncitizen immigrants currently residing in the United States.

Some statistics are helpful in conveying the scale and growth of U.S. deportation policy. Kanstroom (2007, p. 3), for instance, estimates that over 44 million noncitizens have been ordered to leave the United States since 1925, and the number deported by virtue of a criminal offense increased sharply during the 1990s (Ellermann 2009). According to Homeland Security Secretary Janet Napolitano, deportations reached a record high during fiscal year 2009, with nearly 390,000 noncitizens deported, about half of whom were convicted criminals (Preston 2010). This represents an immense increase from the 391 criminals deported in 1980, who constituted fewer than 3% of all deportees (*Yearbook of Immigration Statistics* 2004). This increase affects many more than just the deported individuals, as approximately 1.6 million U.S. residents are now separated from a spouse or a child due to criminal deportation (Human Rights Watch 2007).<sup>2</sup>

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<sup>2</sup> When referring to these numbers we should clarify a few legal aspects of criminal deportations. For one, only noncitizens can be deported (i.e., naturalized immigrants are not “at risk”). To avoid redundancies, we sometimes omit the adjective “noncitizen” when referring to “immigrant” or “foreign-born” populations in the manuscript, although it should be assumed that only noncitizens are truly at risk of deportation. Second, the majority of deportations are for civil as opposed to criminal reasons, such as having insufficient documentation (e.g., having entered illegally), not having legal residence in the United States, or having violated the conditions associated with a visa, although we will demonstrate that the proportion of criminal deportations has varied over the last century. Third, “criminal deportations” are those in which the reason for removal from the country was an offense committed after entry into the United States. Typically, noncitizens are arrested for crimes and their immigration status is discovered during criminal proceedings, although other possibilities exist. For instance, federal authorities could make a concerted effort to target and deport noncitizens with criminal records. Fourth, the official deportation referred to here may exclude some removals, such as those temporarily detained at the time of entry and then ordered to leave without having established residency in the country. In addition, after 1996 there have been a larger number of “expedited removals,” which “allow for

Given the number of people affected by this practice and its dire implications for deportees and their families (Morawetz 2000), the time has come for a thorough empirical investigation of this particular form of state power and social control. At present, we know comparatively little about how deportation has changed over the past century; whether trends in criminal deportations are distinct from other kinds of expulsions; and the relative influence of political, economic, and social factors in driving these trends.

An investigation of these issues is thus timely and pertinent, but deportation also offers an important research setting to assess general sociological theories of punishment, immigration, and social exclusion. Criminal deportations constitute a form of contemporary banishment—the systematic removal of an offender from a state. Sociologists and historians of punishment have frequently identified this practice as a prominent form of social control, often with a focus on the American colonial settlements (Erikson 1966) or the British transportation of criminals during the 18th and 19th centuries (Rusche and Kirchheimer 1939; Beattie 1986; Feeley 1999; Morgan and Rushton 2004; Willis 2005). While imprisonment and other types of confinement (e.g., mental hospitals and asylums) have largely replaced expulsion as the dominant forms of punishment for serious crimes, strategies emphasizing banishment and exclusion, such as civil commitment laws or off-limits orders, have experienced a modern resurgence; “banishment is indisputably back” (Beckett and Herbert 2010, p. 12).

Such work rightly points out that newer, subtler forms of banishment have largely replaced more archaic types, such as transporting criminals to colonial settlements. Still, the sheer number of U.S. deportations in recent years suggests that these “old forms” of banishment cannot easily be dismissed as relics of a bygone era. Our goal here is to specify and test a sociological model of criminal deportation, leveraging nearly a century of data to offer the first quantitative analysis of U.S. deportation over the past century.

Theory and research on punishment and immigration have long emphasized how economic and political forces shape the style, intensity, and frequency of formal state sanctions or immigration policy changes. Nevertheless, the extent to which these factors influence criminal deportations remains an open question, and we see reasons to question and empirically assess their salience. With respect to politics, punishment scholars frequently identify conservatism and Republican Party strength as robust

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summary deportation at ports of entry of nonresidents who arrive without valid travel documents or who attempt entry through fraud” (Ellermann 2009, p. 24). These cases bypass exclusion proceedings and judicial hearings.

determinants of punitive policies and practices (Jacobs and Helms 1996; Garland 2001; Jacobs and Carmichael 2002), particularly during the 1980s (Beckett 1997). Yet, criminal deportation is also interwoven with immigration policy, which in the United States has historically entailed an odd series of Left-Right political coalitions. As Tichenor (2002, p. 8) states, “it would be hard to think of an area of U.S. public policy that has engendered more incongruous political alliances in American history.” Pro-business Republicans welcome inexpensive labor, while conservative defenders of “cultural integrity” call for restrictions on immigration (Huntington 2004). On the Democratic side, unions have sometimes favored restrictive policies (Zolberg 2006, pp. 218–19), while liberal and humanitarian constituents call for an “open borders” approach (Ellermann 2009). As such, we question whether political party dominance is likely to be a primary driver of changes in criminal deportations.

Historical work on banishment more often emphasizes economic conditions. This line of research is grounded in the foundational work of Rusche and Kirchheimer (1939), who argued that penal practices are largely determined by economic forces. Their thesis continues to resonate in the contemporary punishment literature (Sutton 2004), offering a springboard for the current analysis. Yet our consideration of economic forces and banishment extends beyond Rusche and Kirchheimer’s classic formulation in several notable respects. For one, we focus on the deportation of noncitizens rather than citizens. We also consider the 20th century period of massive migration and globalization, as nations were increasingly confronted with the issue of how to punish individuals who are “guests” of the state. Whereas earlier work pointed to changes in the mode of production, we consider fluctuations in labor markets and other social conditions within a capitalist state. Specifically, we will argue that major legal and bureaucratic changes during the 20th century reshaped the deportation-unemployment nexus. Finally, prior work has not clearly established why labor markets matter. We will draw on Melossi (1985, 2008) and Beckett and Sasson (2000) to empirically assess whether a changing discourse on three related factors—immigration, labor, and employment—partly mediates the association between deportation and economic conditions.

Perhaps due to the paucity of readily available time-series data on deportations, no prior research has systematically examined historical variation in the use of this sanction. We thus begin by placing the issue in historical context before explicating our theoretical argument. We then describe the nature of our historical data and discuss the results and implications of our analysis.

LABOR MARKETS AND PUNISHMENT

At its core, modern deportation is the punishment of noncitizens via forced expulsion from the United States, most often to the deportee's country of previous residence. To explain this practice over time, we develop and test a model rooted in earlier work on criminal banishment, incarceration, and immigration, all of which point to economic factors as key determinants.

Most prominently, Rusche and Kirchheimer (1939) proposed that punishments change with the mode of production. They argued that the rise of mercantilism prompted nations to reconsider capital and corporal punishments that permanently removed convicts from the labor market, preferring instead sanctions such as galley slavery and imprisonment. The latter punishments put convicts directly to work, trained them to work, or warehoused them as a reservoir of labor, with obvious benefits for the owners of production. Rusche and Kirchheimer, in fact, wrote at length about the deportation of convicts when discussing British transportation during the Colonial Era. From their perspective, the rise of mercantilism and its attendant focus on labor supply spurred rampant deportations from Britain to the colonies. The British desired goods from the colonies, the colonists desired labor power, and the convicts provided a cheap labor source (Eckrich 1987; Morgan and Rushton 2004). The beauty of deportation, at least from the British perspective, was that it effectively moved expendable labor from the mainland to the colonies so that products could be inexpensively extracted. For Rusche and Kirchheimer, these economic motives, above and beyond any humanitarian concerns, hastened the decline of corporal punishment and the rise of deportation during the 18th century.

The transportation of British criminals to the United States effectively ended with the Revolutionary War, although the practice of banishment continued elsewhere. The newly formed U.S. government maintained the power to deport, and an important commonality for our purposes is that both the British and U.S. systems of deportation were motivated, in part, by fiscal concerns (Kanstroom 2007). Just as economic conditions motivated the British legislation enabling criminal transportation (the Transportation Act of 1718; see Rusche and Kirchheimer 1939), late 19th century American immigration and deportation law developed in the context of debates about labor (Kanstroom 2007, p. 112). We thus draw a parallel between the British transportation system, which moved convicts to where labor was needed, and U.S. deportation laws that sought to exclude labor when demand for workers was low. Deportation becomes a more appealing option—both politically and economically—when a labor market is saturated.

But how and why do economic conditions affect deportations? Implicit in Rusche and Kirchheimer's thesis is that the owners of production have a significant and direct influence on the administration of justice and law enforcement. Scholarship in this tradition similarly views prisons as institutions for controlling populations perceived as threatening, groups Spitzer (1975) termed "social dynamite." From this perspective, punishment and social control rises when the "dynamite" becomes more volatile, as is the case when labor markets are slack. A related neo-Marxian perspective implies that penal policies, and presumably immigration laws, can effectively regulate the supply of labor (Jankovic 1977). Consistent with this general thesis, immigration has long been considered a vehicle for increasing the pool of workers during labor shortages, as evidenced by the Bracero Program that allowed for Mexican guest workers in the mid-20th century to address the wartime labor shortage (Calavita 1992). To the extent that the state develops and implements programs like Bracero to import immigrant workers during labor shortages, it is reasonable to expect state pressure to expel them when labor supply far outstrips demand. Deportation offers a practical means to facilitate this exodus.

The above strands of work, however, remain somewhat vague on the issue of agency and the specific mechanisms driving deportation. Which individuals or groups, exactly, are most sensitive to changing economic conditions and, hence, responsible for sanctioning the putatively dangerous classes? And how do rule enforcers themselves respond to changes in the economy? Melossi (1985) notes that the lion's share of work on labor markets and punishment neglects any discussion of how "agents of penal control" respond to labor market changes and subsequently justify their decisions. We thus consider a line of research implicating the public discourse on labor and immigration as an important conduit linking labor markets and punitive social control.

Specifically, we build on Melossi's (1985) explanation of business cycles and punishment, which draws attention to how public discourse about crime specifically and social problems more generally fluctuate with the economy. The public discourse around social problems becomes increasingly fervent and widespread during economic downturns regardless of actual crime rates or, in our case, immigration inflows. In short, during good economic times, criminals and immigrants are less likely to be vilified and—to the extent that they constitute a real or perceived problem—more easily addressed through a reformist agenda. For instance, crime was relatively high during the roaring twenties and the booming sixties, but imprisonment rates remained low and the general discourse on punishment lacked punitive overtones. During times of economic decline, in contrast, Melossi (1985, p. 183) proposes that a "discursive chain" of punitiveness emanates from politicians, pundits, moral entrepreneurs, and



opinion writers. As such, “in the downswing of the cycle, the social organization against crime is generally strengthened and extended. Society becomes more ‘demanding’ about the behaviors of its members” (Melossi 1985, p. 183), particularly, we might add, its noncitizen members.

Consider, for example, passage of California’s Proposition 187, which highlights the importance of structural economic conditions as well as populist discourse consistent with a Gramscian “war of position” (Foucault 1977, pp. 229–38; see also Gramsci 1971) to establish cultural hegemony. Passed by a wide margin in 1994 and serving as a model for federal immigration reform, Proposition 187 barred undocumented immigrants from attending public schools and receiving nonemergency health care, while also requiring health and school personnel to report individuals they suspected were undocumented. The prevailing economic conditions at the time were mixed—stock markets were climbing, but employees’ real wages were declining (Phillips 1993). The discourse around the initiative focused almost entirely on the perceived financial burden of illegal immigration, evoking “a belief system in which illegal immigrants are the scourge of efforts to control spending” and “thus responsible for all that ails us” (Calavita 1996, p. 300). In many respects, this discourse and the resulting vote may be viewed as a symbolic statement—and hegemonic project—founded on economic uncertainty (Calavita 1996). Popular media personalities, such as Lou Dobbs and Bill O’Reilly, have since continued to advance this sentiment, although with greater emphasis on immigration and crime. For instance, Dobbs has lamented “the federal government’s apparent unwillingness to protect us from criminal illegal aliens” (March 3, 2005), while O’Reilly alleges that the “nation’s prisons are full of men from foreign countries who have come to the USA and hurt people” (May 11, 2005).<sup>3</sup> Sensitive to such concerns, law enforcers (e.g., those in the Department of Justice) and judges may find it more difficult to grant leniency and thereby “tighten their grip” on noncitizen criminals when the economy is performing poorly.<sup>4</sup>

<sup>3</sup> While not all media coverage is slanted against immigration, most such reports are negative. Among newspapers close to the U.S.-Mexico border, about 76% of the news articles and 85% of the opinion pieces cast immigrants in a negative light. Even newspapers over 700 miles from the border disproportionately portray immigrants negatively in both opinion pieces and articles (Branton and Dunaway 2009).

<sup>4</sup> The notion that judges are at least somewhat sensitive to public concerns rests on a solid empirical foundation. Huber and Gordon (2004) show that judges sentence criminal offenders more harshly as elections approach. In addition, unelected federal judges also respond to public sentiments (Cook 1977). Even at the level of the Supreme Court, Mishler and Sheehan (1993, p. 96) show that the “public opinion exercises important influence on the decisions of the Court,” although the latter association was particularly strong prior to the Reagan years (1956–81 in their analysis). Immigration judges are charged with exercising independent judgment and discretion but are appointed by the attorney general and administratively located within the Department of Justice.

Beckett and Sasson (2000) also draw on Gramsci in advancing a related argument about discourse and punitiveness, describing the shift from the welfare state to the “security state” as a hegemonic project of the ruling class. By this view, representatives of the capitalist class seek popular consent through cultural and ideological mechanisms, rather than coercion, shaping public opinion via mass media and educational institutions. Strategies to portray immigrants as dangerous or criminal are thus consistent with efforts to secure hegemony around a vision of government that “divests the state of responsibility for social welfare but emphasizes its obligation to provide ‘security’ against foreign and domestic threats” (Beckett and Sasson 2000, p. 62; see also Fernia 1981).

Although Melossi largely discusses public discourse with respect to imprisonment and Beckett and Sasson focus on the demonization of “welfare queens” and “drug kingpins,” the logic of their arguments extends well to criminal deportations. Just as the discourse on crime becomes more punitive during a recession, concerns about illegal immigration grow more restrictionist during economic downturns, with protectionism largely superseding more inclusive sentiments. We therefore suggest that public discourse, as indicated through media reporting on immigration and its consequences for American workers, becomes more heated as the economy worsens. In turn, prosecutors and judges are more likely to deport non-citizens convicted of crimes during difficult economic times. This argument is premised on the assumption, borne out in much research, that anti-immigrant sentiment is partially rooted in economic conditions. Citizen opposition to immigration, for instance, tends to increase when the economy performs poorly (Tienhaara 1974), during times of high unemployment (Wilkes, Guppy, and Farris 2008) or pessimism about the national economy (Citrin et al. 1997). For example, Quillian (1995) finds that anti-immigrant feelings in European countries increase as economic conditions worsen.

In sum, the respective literatures on banishment, incarceration, and anti-immigrant sentiment suggest two general hypotheses.

HYPOTHESIS 1.—*The number of criminal deportations will increase with the unemployment rate.*

HYPOTHESIS 2.—*The relationship between unemployment and deportations will be partly mediated by the discourse on labor and immigration, as measured by indicators such as newspaper coverage.*

Yet, the correlation between unemployment and deportations is hardly immutable, responding instead to the significant legal and bureaucratic changes of the 20th century. Indeed, there is precedent for this notion in the literatures on criminal punishment, changes in immigration law, and time-series analysis more generally (Isaac and Griffin 1989). Most notably for our purposes, Michalowski and Carlson (1999, p. 221) show that the



unemployment-incarceration correlation changes over time, and Tichenor (2002, pp. 22–23) suggests that the link between economic declines and anti-immigrant fervor “*can be transformed* by political institutions and the policymaking process” (p. 23, our emphasis). In short, changes in the legal and political environment may alter the relationships between punishment and macroeconomic indicators. We thus consider changes in the sociolegal context, which points us toward such period-specific predictions.

#### CONTEXTUAL FACTORS AND PERIODIZATION

In their historical analysis of incarceration and unemployment, Michalowski and Carlson (1999) argue that labor market conditions affect punishment differently based on the social, political, and economic arrangements of the time. For instance, they demonstrate that unemployment and prison admission rates were positively correlated between 1948 and 1966 yet negatively correlated during the 1980s. Their key point, and one with implications for our own research, is that changes in socioeconomic, legal, and bureaucratic environments introduce contingencies in the association between labor markets and penal practices. We suggest that significant changes in at least three factors during the 20th century—the nature of deportation law, the development of the immigration law enforcement bureaucracy, and the nature of punishment philosophy and discretion—will yield temporal instability in the association between criminal deportations and labor market conditions. Below we test for structural breaks in this association, with an eye toward notable political, bureaucratic, and legal changes.

##### Period 1 (1908–40): The Development of Criminal Deportation Law and Bureaucracy

The first period under consideration covers the pre–World War II years (1908–40).<sup>5</sup> During this era we expect, at most, a weak association between criminal deportations and labor market conditions. While prior to World War II the discourse on immigration was intertwined with concerns about labor and crime (Hutchinson 1981, chaps. 5 and 6; Kanstroom 2007), this was also a time in which the deportation system—both the law and the enforcement bureaucracy—was still being constructed. With respect to legislation, during the first 10 years of this era (1908–17) aliens could only

<sup>5</sup> The year 1908 is when annual data on criminal deportations first became available. We end in 1940 for reasons explained below.

be deported for crimes committed at the time of entry (as opposed to those committed after admission to the United States).<sup>6</sup> Not until 1917 did legislation call for the deportation of aliens “sentenced to jail for two or more crimes involving ‘moral turpitude’” (Maslow 1956, p. 313). Subsequent laws in 1918, 1924, and 1929 addressed related issues such as anarchy and visa violations, further expanding the postentry social control of noncitizens. This was thus a period when the legal underpinnings for many types of deportation, both criminal and civil, were being established. Notably, the number of deportable criminal offenses was still narrowly defined and, more importantly, the enforcement bureaucracy was still developing.<sup>7</sup> Kanstroom (2007, p. 163) points out that deportation law enforcement, like federal criminal law enforcement more generally, was still becoming centralized and increasingly bureaucratic as late as the 1920s and 1930s.<sup>8</sup>

For most of this period the social and political desire to expel criminals and “immoral classes” was widespread. Yet, the legal foundation for criminal deportations and the bureaucratic machinery to execute any mandate on a significant scale remained a work in progress. We thus expect the number of criminal deportations to have increased during this period as the law expanded the range of deportable offenses, particularly after 1917. Still, without the administrative capacity to deport large numbers of non-citizen criminals during this period, it is unlikely that structural factors such as unemployment would strongly correlate with criminal deportations. State bureaucratic capacity and coordination had yet to catch up to the prevailing sentiment of the times.

## Period 2 (1941–86): The Entrenchment of Postentry Social Control

Our second period begins in 1941, which not only marks the onset of U.S. involvement in World War II and the attendant need to recruit labor (e.g., the Bracero Program; see Hutchinson 1981, p. 311; Calavita 1989, pp.

<sup>6</sup> There were, however, related laws on the books as early as 1907, such as legislation mandating deportation for reasons such as abetting prostitution or coming to the country for “immoral purposes.”

<sup>7</sup> Given this developing legal and administrative structure, it is not surprising that noncriminal deportations were much more likely during this period. Between 1911 and 1920, the top three administrative reasons for deportation (a total of 27,912 cases) were “likely to become a public charge” (9,086), “mental or physical defect” (6,364), and “immoral classes” (4,324); “criminals” ranked fifth (1,209) (U.S. Department of Justice 1954, table 33).

<sup>8</sup> Simon (2007) makes a related point with respect to the crime control complex more generally, noting that the Department of Justice had “swollen into a planetary giant within the executive solar system” (p. 45) as Roosevelt’s New Deal came to fruition (see Simon [2007], pp. 46–48, for discussion of these changes).

20–21, 1992; Kanstroom 2007, pp. 221–22), but this period also follows on the heels of the 1940 Alien Registration Act (ARA). Title III of the ARA required any alien seeking to enter the United States, as well as those already in the country, to be registered and fingerprinted, with deportation as a potential consequence for noncompliance. The ARA thus expanded the state's capacity to track and monitor noncitizens and systematized the entire deportation apparatus.<sup>9</sup> In addition, Title II of the ARA added new grounds for criminal deportation (e.g., possession of weapons) and allowed for deportation for violations of part 1 of the act, which effectively criminalized advocacy with intent to overthrow any government in the United States.

In contrast to the first period, the postwar years were not marked by great legislative activity. The 1952 McCarran-Walter Act largely brought previous immigration and nationality laws under a single, more coherent set of statutes. The only other major legislation prior to 1986 was the 1965 Immigration and Nationality Act, which abolished the national origins formula but had few direct implications for criminal deportations. By 1941 the machinery of deportation was effectively in place and, relative to the previous era, a more encompassing list of criminal offenses now qualified as "deportable." At the same time, significant discretion remained in the system (Simon 1998, p. 581). As Justice Stevens recently noted in his majority opinion in *Padilla v. Kentucky* (2009), "even as the class of deportable offenses expanded, judges retained discretion to ameliorate unjust results on a case-by-case basis." In addition, administrative agencies such as the Immigration and Naturalization Service (INS) maintained significant administrative discretion that was sometimes employed to allow cheap and expendable labor into the United States (Calavita 1992, p. 9). This point is worth emphasizing given our argument that discretionary relief is a key factor linking deportations and economic conditions. All in all, we expect an especially strong correlation between labor market conditions and criminal deportations during this period.

### Period 3 (1987–2005): The "Culture of Control" and the Curtailment of Discretion

The year 1987 is in many respects a watershed for the study of criminal deportations. With respect to immigration law enforcement more generally, Massey, Durand, and Malone (2003) mark the post-1986 period as "The Great Divide." Akin to the pre-World War II years, this was also

<sup>9</sup> The agency responsible for deportation also moved from the Department of Labor to the Department of Justice in 1940, institutionally housing deportation within the agency charged with federal criminal law enforcement.

a time of extensive legislative activity, much of it punitive and oriented toward crime. In this era, the deportation bureaucracy was well established, with substantial new funding now being directed toward criminal deportations. This period also captures a categorical shift in crime control more generally, one that severely curtailed administrative and judicial discretion and reemphasized punitive sanctions (Garland 2001; Simon 2007). For these reasons, and as delineated below, the number of criminal deportations should have increased dramatically after 1986. At the same time, unemployment should be less strongly tied to criminal deportation in this era, given strong political pressures to crack down on criminal aliens, including allegedly threatening immigrants after 9/11, and the diminution of discretion.

The principal reason to expect dramatic changes in deportation after 1986 is the Immigration Reform and Control Act (IRCA), which took effect on January 1, 1987. In theory and rhetoric, the IRCA was principally concerned with sanctioning employers who knowingly employed illegal immigrants. In reality, IRCA had tremendous ramifications for criminal deportations. As Juffras (1991) notes in his assessment of IRCA's impact on the enforcement mission of the INS, the law had some unforeseen consequences. Most notably, the key element of the law—sanctions on employers for hiring undocumented immigrants—was largely compromised by the growth of INS's other law enforcement tasks (Calavita 1989, p. 36; Juffras 1991, p. 38). Specifically, renewed political pressure to elevate "the importance within the INS of criminal alien removal and drug interdiction" further diffused the agency's resources and attenuated the importance of employer sanctions (Juffras 1991, p. 6).

This renewed focus on criminal deportation was propelled by a short but consequential section of IRCA (sec. 701; the MacKay Amendment) mandating that in cases in which aliens are convicted of a deportable offense, the attorney general shall begin any deportation proceeding as expeditiously as possible. This provision enabled INS to use IRCA funding to implement the Alien Criminal Apprehension Program (ACAP), a criminal deportation initiative that had been at the planning stage for several years. The IRCA effectively became a funding vehicle for ACAP, increasing the budget for criminal alien removal by 14% in 1987 and another 23% in 1988 (Juffras 1991).<sup>10</sup> Also, in 1986, the Anti-Drug Abuse Act (Public Law 99-570, 100 Stat. 3207) expanded INS powers to deport

<sup>10</sup> Massey et al. (2003, p. 96) also report that the INS budget remained relatively flat prior to 1986, but then doubled during the next four years.

noncitizens convicted of drug violations.<sup>11</sup> The latter powers were further expanded two years later with the 1988 Anti-Drug Abuse Act (Public Law 100-690, 102 Stat. 100, 4181), which mandated deportation of noncitizens convicted of aggravated felonies.<sup>12</sup>

The trend toward restrictive crime-control legislation simultaneously curtailed judicial discretion (*Padilla v. Kentucky* 2009). Kanstroom (2007, p. 228) observes that the 1990 Immigration Act “in effect, eliminated most forms of discretionary relief from deportation. The longstanding power of judges to prevent deportation through [Judicial Recommendation against Deportation] was also eliminated.”<sup>13</sup> In short, IRCA set in motion a wave of punitive legislation that practically eliminated discretionary relief and, we suggest, increased the frequency of criminal deportations irrespective of labor market conditions.

This latter spate of legislative activity around deportation parallels a more general and monumental shift in American crime control policy and strategy during this same period, which Beckett and Sasson (2000) identify as the “security state” and Feeley and Simon (1992) labeled “the new penology.” Among the distinct features of this era were a new focus on risk avoidance, a greater emphasis on confinement and incapacitation, and a penal policy oriented to the efficient management of broad groups deemed threatening by the public and politicians (Feeley and Simon 1992; Garland 2001). The new era was also characterized by a dramatic curtailment of judicial discretion, limiting judges’ power to consider individual circumstances. In contrast to previous periods, year-to-year changes in extralegal factors such as unemployment are expected to have little impact on either the number of deportations or the number of prisoners (see Michalowski and Carlson [1999] on the latter). In addition, the management of “dangerous” groups during this period became so institutionalized that levels of punishment were bound to increase independent of any national shift in demographics, politics, or crime rates (Feeley and Simon 1992, p. 470). In light of these wholesale changes, we hypothesize the following:

<sup>11</sup> This law also substantially limited judicial discretion by instituting mandatory minimums and clearly directed enforcement efforts toward crime and drugs. As noted by Massey et al. (2003, pp. 99–100), after the 1986 drug law “one-third of all Border Patrol agents were cross-deputized to enforce U.S. drug laws.”

<sup>12</sup> Juffras (1991, p. 53) notes that the impact of these laws was felt almost immediately. The number of noncitizens deported for violating drug laws more than quadrupled between 1986 and 1988.

<sup>13</sup> Two major laws passed in 1996—the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA; Public Law 104-208, Stat. 3009-546) and the Antiterrorism and Effective Death Penalty Act (AEDPA; Public Law 104-132, Stat. 100-1214)—further reduced a judge’s power to grant relief from deportation (Human Rights Watch 2007, p. 25).

**HYPOTHESIS 3:** *There was a positive correlation between imprisonment and the criminal deportation of noncitizens from 1987 to 2005.*

Imprisonment and deportation each represent manifestations of the new “culture of control” (Garland 2001) characteristic of the times.

#### ETHNICITY, POLITICS, AND OPPORTUNITY FACTORS

Although our primary focus is on the role of labor market conditions, prior work on criminal punishment and immigration policy also directs attention to demographic and political factors. With respect to race and ethnicity, much work takes guidance from Blalock’s (1967) classic group threat perspective. Blalock argued that a large or growing racial minority group is perceived as threatening by the majority population and ruling elites. Such perceived threats, in turn, may elicit reactions that culminate in discriminatory behavior. In the field of criminal punishment, research in this tradition supports a racial threat model whereby large or growing African American populations are associated with more punitive sanctions (Jacobs and Helms 1996; Greenberg and West 2001; Jacobs, Carmichael, and Kent 2005). We test an extension of this threat model, focusing on ethnic rather than racial shifts, particularly the influx of Mexican immigrants.

Several lines of reasoning suggest an association between deportations and Mexican immigration. For instance, there is evidence—both from academia and the popular media—that immigration from Mexico is perceived by some as posing a special threat to the cultural integrity of U.S. communities. Prior work on anti-immigrant sentiment finds that the concentration of the foreign-born has no effect on attitudes toward immigrants, yet individual beliefs about the impact of Hispanic and Asian immigrants on employment and taxes are associated with support for restrictive policies (Citrin et al. 1997). At a more abstract level, Huntington (2004) has argued that Hispanic immigration threatens to tear apart the cultural fabric of the United States.<sup>14</sup>

In addition, Mexican immigrants may be perceived as presenting an economic threat by virtue of job competition or by straining government resources (Citrin et al. 1997). Job competition, real or perceived, could in

<sup>14</sup> Some politicians have gone even further. As former Tennessee senator and presidential candidate Fred Thompson stated, “twelve million illegal immigrants later, we are now living in a nation that is beset by people who are suicidal maniacs and want to kill countless innocent men, women, and children around the world” (quoted in Sampson [2008], p. 29). One likely reason for the persistent focus on immigrant criminality is that anti-crime sentiments are met with little resistance from either side of the political aisle (see Ellermann 2009).



turn mobilize working class political opposition against immigrants (see Olzak [1992] for a related argument). Finally, and directly contrary to the best empirical evidence (Sampson 2008), opinion polls suggest that the public associates immigrants with crime. A 1993 poll, for example, found that over 60% of respondents thought Latin American immigrants significantly increased crime, a percentage that decreased as the economy improved in the 1990s (Pew Research Center 1996).

While this constellation of factors directs attention to the ethnic composition of immigrant groups, we also acknowledge two rationales that would limit the impact of Mexican immigration on criminal deportations. First, research on prejudice in the United States suggests that it is a population's racial composition, rather than its ethnic composition, that arouses bigotry among majority group members (Taylor 1998). Second, studies of race and punitive sanctions, such as legalization of capital punishment, suggest that race, not ethnicity, plays a significant role (Jacobs and Carmichael 2002).

Apart from race and ethnicity, punishment is an inherently political affair, a theme running through Foucault (1977) and more recent statements by Beckett and Sasson (2000), Garland (2001), and Simon (2007). All challenge researchers to question the meaning and sources of political power and who is served by the expanding "carceral archipelago" of disciplinary control. Deportation is, of course, a harsh and incapacitative punishment, and as such it is consistent with crime control policies favored by conservatives. Although contemporary empirical work often reports a positive association between political conservatism and punishment (Sutton 2000; Jacobs and Carmichael 2001, 2002), U.S. incarceration rates ascended for 35 years—regardless of whether Democrats or Republicans held sway. Such patterns suggest that imprisonment, and perhaps banishment as well, today reflects a broad hegemonic "security" project as much as any given partisan environment (Beckett and Sasson 2000). The former directs attention to the general rise in punishment, whereas the latter draws a tighter link between political conservatism and harsh punishment.

Scholars of immigration policy similarly point to the complex and inconsistent political configurations of immigration policy, historically resulting in "strange bedfellow coalitions for or against particular proposals" (Zolberg 2006, p. 19; also see Calavita 1989; Freeman 1995; Tichenor 2002). Stated differently, issues such as immigration and state social controls can often subvert traditional political ideologies. The Clinton era, for instance, simultaneously dismantled the public assistance programs of the welfare state and bolstered the correctional control of the security state. Here, too, such developments can be viewed as part of a larger hegemonic strategy intended to portray the poor and foreign-born as dan-

gerous. Most notably, changes in deportation law show that punitive immigration legislation cuts across partisan lines.<sup>15</sup> Regardless of whether this punitive dialogue is part of a directed strategy or simply pluralistic group conflict, extant research provides ample grounds for investigating political influences on criminal deportations.

Finally, we test the above-mentioned hypotheses while also considering the basic opportunity structure for criminal deportations. For instance, the absence of noncitizens would render deportation irrelevant, and it follows from this standpoint that criminal deportations would rise and fall with the size of the noncitizen population. Along similar lines, criminal deportations are premised on the commission of crimes, and thus such expulsions may simply fluctuate with the crime rate.

#### DATA, VARIABLES, AND METHODS

Although the federal government has recorded and disseminated statistics on deportations since the late 19th century, deportations were first categorized by reason for removal in fiscal year 1908 (U.S. Department of Justice 1954, table 33, endnote 1), just as federal immigration and naturalization agencies were becoming more centralized (e.g., Naturalization Act of 1906) and official inspections of the system were undertaken (e.g., Immigration Act of 1907). For this analysis, we constructed a data set with information on deportations dating back nearly a century (1908–2005). Our compilation is based on statistics published in the *U.S. Immigration and Naturalization Service Reports* prior to 1960, the *Sourcebook of Criminal Justice Statistics* through the 1980s, and thereafter from the *Yearbook of Immigration Statistics* (U.S. Department of Homeland Security 2005). While the data are published in different venues, there is continuity with respect to original source and type of information provided. Accordingly, for each year between 1908 and 2005 we tallied the total number of aliens deported along with the number deported for reason of criminal behavior. As discussed below, we derive our dependent variable from the latter information.<sup>16</sup>

Figure 1 shows the number of deportations by year along with the percentage of all deportations for which criminal behavior was the administrative reason for removal. As shown in this figure, there were rel-

<sup>15</sup> For example, IRCA was passed by a Democratic congress and signed into law by a Republican president in 1986.

<sup>16</sup> In some years, noncitizens removed because of narcotics violations were recorded under a separate heading. When this occurred, we pooled the narcotics and criminal deportations into a single category so that our dependent variable includes narcotics violations throughout the entire period of interest.

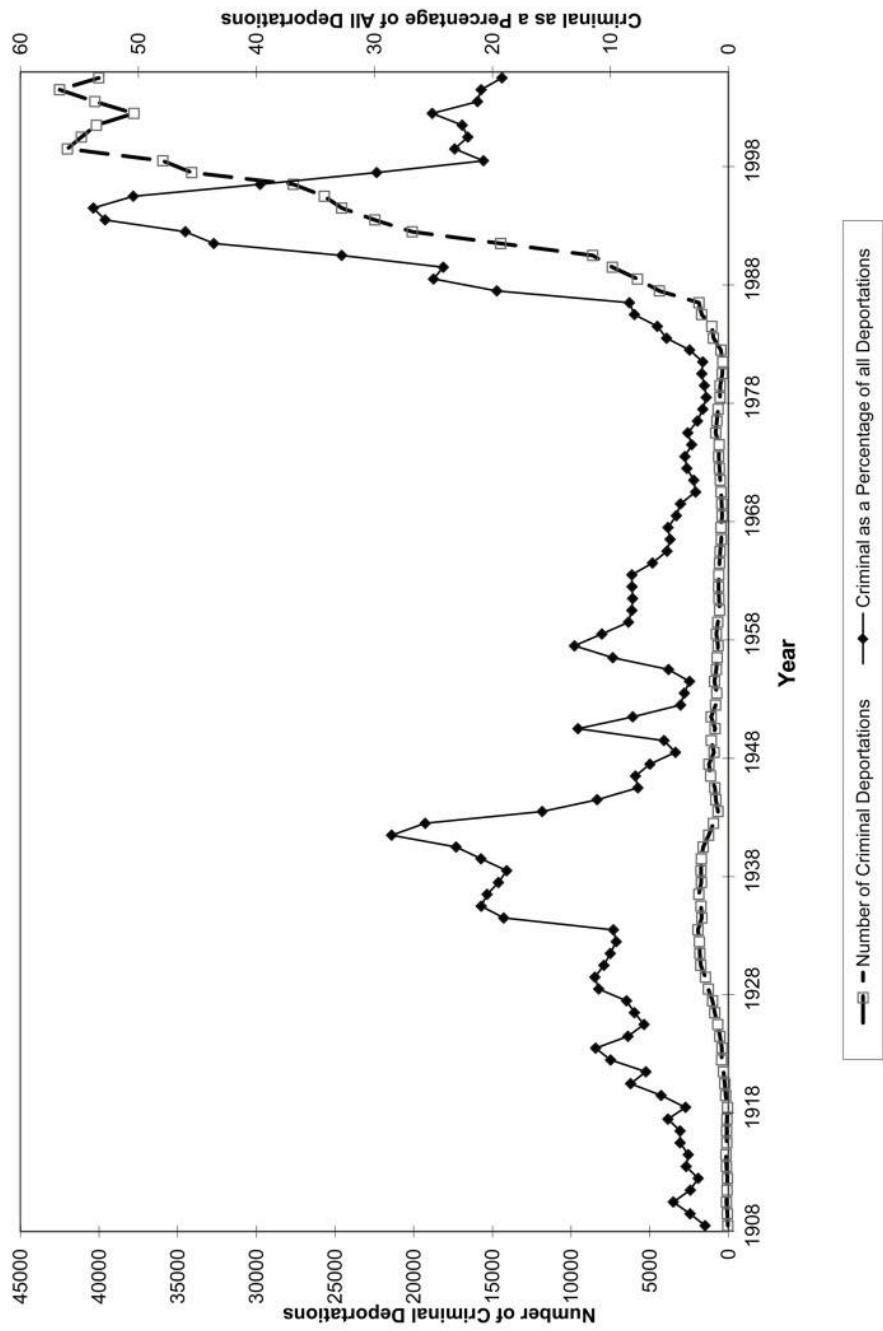


FIG. 1.—Criminal deportations by year, 1908–2005

atively few such removals throughout much of the 20th century. A clear spike in criminal deportations—measured by either the raw frequency or as a percentage of all deportees—was evident during the Great Depression years. The practice was less common until the 1980s, when a dramatic upsurge in criminal deportations paralleled the expansion of punitive social control in other parts of American society. By 1994, nearly 25,000 noncitizens (comprising 50% of all deportees) were deported because of a criminal offense. While the raw number continued to increase thereafter, criminal deportations as a percentage of all deportations declined during the 1990s, although they remained at high levels compared to earlier decades.<sup>17</sup>

In the multivariate analyses below, we measure the outcome variable as year-to-year changes, or first-differences. Specifically, we obtain the yearly change in criminal deportations per 100,000 foreign-born residents by subtracting the previous year's rate from that of the current year ((criminal deportations per 100,000 foreign-born)<sub>*t*</sub> – (criminal deportations per 100,000 foreign-born)<sub>*t-1*</sub>). Although the number of noncitizens would be a preferable measure of the population at risk of deportation, these data are only available decennially after 1920, whereas the number of foreign-born persons is reported decennially throughout the 20th century.

<sup>17</sup> The deportation figures shown in fig. 1 and subsequently used in our analysis are lower than those reported in recent publications on criminal deportations. For example, Human Rights Watch (2007; e.g., fig. 1, p. 38) suggests that over 70,000 noncitizens were deported from the United States “on criminal grounds” each year since 1990, while our numbers are roughly half of these values. The reason for this difference is that Human Rights Watch reported data from tables 41 and 42 of the *Yearbook of Immigration Statistics*. These tables, respectively, are titled “Aliens Formally Removed by criminal Status and Region and Country of Nationality” (table 41) and “Aliens under Docket Control Required to Depart by Criminal Status and Region and Country of Nationality” (table 42). These figures include noncitizens who may have been picked up at some point for a crime but were ultimately deported for other reasons, such as overstaying a visa. (This interpretation was confirmed in a personal correspondence with an official at the Office of Immigration Statistics in July of 2007.) Hence, the Human Rights Watch numbers include cases where criminal behavior was not necessarily the administrative reason for removal. We do not use that set of deportation statistics because they are not available for the full observation period. Our data reflect the yearly frequency of noncitizens removed by administrative reason of criminal behavior, which means that criminal behavior was the decisive reason for the deportation. We also point out that some removals occur without formal deportation hearings, for instance, when a noncitizen “voluntarily” exits the country when apprehended at the border. These deportations are not reflected in the data, and hence we may underestimate the total number of deportations (e.g., in fig. 1). In addition, at certain times in U.S. history federal authorities have coerced noncitizens to leave without formal proceedings, as was the case in “Operation Wetback” following the Bracero Program (see Calavita [1992] on coercion and voluntary departure during this operation).

We thus use the foreign-born population as a proxy for the noncitizen population.<sup>18</sup> All predictor variables are also measured as first-differences.

#### INDEPENDENT VARIABLES

Data for our focal independent variable, the unemployment rate, are taken from Dunlop and Galenson (1978, table 1.12) for 1908–76 and from Bureau of Labor Statistics tables for subsequent years. These annual figures represent employment among the noninstitutional population. Our two measures of partisan control are (a) a variable capturing partisan change in the presidency and (b) the year-to-year change in the ratio of Republicans to Democrats in the House of Representatives.<sup>19</sup>

In addition to labor market conditions and politics, our analysis also includes two demographic indicators. First, we account for the number of immigrants from Mexico, an indicator of ethnic threat that is measured by the change in the number of recorded immigrants arriving from Mexico in each year per million total U.S. population. Second, we measure yearly change in the number of total immigrants, again per million U.S. population.<sup>20</sup>

Beyond these demographic measures, we also include an indicator of the crime rate and the number of persons imprisoned in a given year. The homicide rate is used as a proxy for the overall crime rate. Although homicides capture but a fraction of all criminal violations in any given

<sup>18</sup> This proxy appears quite reasonable in light of the correlation between the noncitizen and the foreign-born populations. When we interpolate figures for noncensus years, the correlation for the post-1920 period is .985.

<sup>19</sup> Data are from the *Historical Statistics of the United States* (2006; see tables Eb 296–308 for data on Congress) and the House of Representatives' Office of the Clerk. These are also change scores, and hence for the "Republican president" variable the values are 1 when there is a change to a Republican president, 0 when no change occurs, and –1 when a Republican lost the presidency to a Democrat. Multiple alternatives to this coding were used in additional models. For instance, in some models we did not treat these variables as change scores, in others we used dummy variables if a party controlled Congress and the presidency, and in others we used the partisan ratio for the Senate or the combined House and Senate. The results below are robust to such changes in the coding scheme.

<sup>20</sup> Immigration data are from the *Historical Statistics for the United States: Millennial Edition* (online, 2000), table Ad162–172, and from various U.S. Census Bureau files. We considered using the annual net immigration (arrival of alien passengers minus departures), but reliable data were not readily available for the full time series on this measure. Using data on this measure (net immigration) for the years 1908–57—years for which the net immigration data are available in the *Historical Statistics* volume (Dodd 1993, table Ad21–24)—the correlation with the number of total immigrants is .97. While these measures are thus conceptually distinct, they are likely to produce similar results.

year, there are notable advantages to this indicator. First, data on homicide rates are available for our entire observation period, while other types of crime were not systematically recorded until the advent of the Uniform Crime Reports in the 1930s and, in some cases, the National Crime Victimization Survey (NCS/NCVS) in the 1970s. Moreover, homicides are measured with substantially greater accuracy than other types of crime, and they track the general crime rate very closely—the Pearson correlation between the homicide rate and the NCS/NCVS violent victimization rate between 1973 and 2005 is 0.93.

To capture levels of criminal punishment we included a variable measuring the rate (per 100,000 total population) of sentenced prisoners under correctional jurisdiction at the state and federal level. From 1925 to 2005 the data are taken from the *Sourcebook of Criminal Justice Statistics Online* (2007). Data for earlier years are drawn from *Historical Corrections Statistics in the United States, 1850–1984* (Cahalan 1986). These data are derived from Census Bureau reports in 1904, 1910, and 1923, and we interpolated when estimates were not available from the census.<sup>21</sup>

We leverage historical data from the Gallup Poll and the *New York Times* to assess the importance of public opinion on crime and discourse about labor, employment, and immigration. The Gallup and *Times* data are furnished by the Policy Agendas Project. Given year-over-year changes in the measurement of policy and opinion data, the goal of the Policy Agendas Project is to house and disseminate historically valid and reliable data on policy changes and public opinion. We take two measures from this database. First, we use historical data from the *New York Times* on the number of articles addressing “Labor, Immigration, and Employment.” Spanning more than 60 years and over 44,000 articles, the *Times* data help assess the salience of employment and immigration in the public discourse that was both reflecting and helping to shape public and political debate. Second, our public opinion data on crime comes from Gallup surveys taken from 1947 to 2005. The Gallup survey asks respondents what they view as the most important problem facing the nation, so we use the percentage of respondents who viewed crime as the most important issue in each available year. Because the Gallup and *Times* data were not available for all years under investigation, we only introduce these var-

<sup>21</sup> In supplementary analyses we included the rate of noncriminal deportations in a given year as a control variable. Results of these models, which are not shown here but which are available from the first author, Ryan D. King, upon request, are entirely consistent with those reported below.



variables in a subset of analyses. Descriptive statistics for all variables are shown in appendix A (table A1).<sup>22</sup>

#### ANALYTIC STRATEGY

Several issues inherent to the analysis of time-series data render simple linear regression models inappropriate. For one, a fundamental problem arises from autocorrelation, or the correlation between the values of a time series and previous values of the same series. A Durbin-Watson test identified significant autocorrelation in our analyses of both the overall observation period and the second period prior to detrending. Reduced models in which criminal deportations were regressed on unemployment showed significant autocorrelation for all periods.

A second issue concerns nonstationarity, a condition in which the statistical parameters characterizing a process are not independent of time. When variables are nonstationary their means and variances can change over time, which violates the homoskedasticity assumption of standard ordinary least squares regression models. Moreover, a predictor and outcome variable that trend in the same direction over time may be statistically correlated simply because of their mutual correlation with time, even in the absence of a causal association between the variables beyond this shared directional trend. In our case, the outcome variable clearly trends upward over time. The common remedy for the problem of nonstationarity is to detrend the data, typically by controlling for year in the model or by analyzing first-differences, which capture year-to-year fluctuations in the variables. The precise method of detrending can be consequential (O'Brien 1996), and the decision to control for year or assess first-differences should be guided by assumptions about the data. Rafalovich (1994) recommends a Dickey-Fuller (DF) test for unit root to determine whether a trend-stationary process should be assumed. Controlling for year would be sufficient when assuming a trend-stationary process, yet an analysis of first-differences would be warranted if the outcome variable reflects a nonstationary process. The DF test for the full time series and for two of the three periods described above indicated

<sup>22</sup> We also considered two additional variables. Drawing from the racial and ethnic threat perspective, we tested whether change in the percentage of immigrants who were non-European was associated with criminal deportations. In addition, unions in the early years of our analysis were at times supportive of restrictive immigration policies (e.g., Zolberg 2006, pp. 218–19, p. 331), so we tested whether deportations were associated with the percentage of the nonagricultural labor force that was unionized. Neither variable showed robust, significant effects in either the full time series or the period-specific analyses.

a nonstationary process, which further suggests detrending by use of first-differences in all variables ( $x_t - x_{t-1}$ ).

There is yet another reason to detrend via first-differences instead of controlling for year. Our outcome variable trends to such a degree that the Pearson correlation between the logged rate of criminal deportations and year is .73 for the full period, .96 for the first period,  $-.59$  for the second period, and .81 for the final period. These high correlations further support our decision to analyze year-over-year changes in the variables because this method of detrending sharply decreases the correlation with year. Moreover, we detect no autocorrelation in the data when using first-differences.

A final consideration, and one again relevant to the issue of nonstationarity, is whether key coefficients of interest change over time. Indeed, our explanatory framework suggests that the effects of our predictor variables should change over time, with pronounced structural breaks in parameters in 1940–41 and 1986–87. We use a two-step process to identify structural breaks in the data. First, we follow Isaac and Griffin (1989; building on Quandt 1958) and conduct a “moving regression” or “moving correlation” analysis. We begin by showing the correlation for a portion of the time series (1908–30), which represents the first mark on the left side of figure 2 ( $r = 0.3$ ). We then sequentially add each additional year (1931, 1932 . . . 2005), plotting the correlation between the change in unemployment and the change in criminal deportations.

Figure 2 indicates two breaks in the data that align well with the legal and bureaucratic changes discussed above. The correlation between unemployment and criminal deportations bounces from about .25 to .35 prior to World War II but then rises in magnitude beginning in about 1940. Following a few years in which the correlation is quite high during and just after the war, a remarkably stable correlation is apparent until 1986. Then, with the addition of a single year to the time series—1987, when the IRCA took effect—the coefficient drops dramatically, from about .34 to .19, and the standardized correlation continues to decline thereafter. In short, the evidence is congruent with our explanatory model suggesting structural breaks in the time series.

Our second step is to conduct a series of Chow tests for the statistical significance of the structural breaks in the deportation-unemployment association.<sup>23</sup> We first test for a break in 1986–87, which yields a significant Chow statistic ( $F = 7.91$ ;  $P < .001$ ). To test for subsequent breaks, Hansen (2001, pp.120–21) recommends a second Chow test for the remaining years (1908–86 in this case). This test was also statistically significant ( $F = 7.23$ ;  $P < .01$ ), indicating a significant difference in the unemployment

<sup>23</sup> Chow tests were conducted using the AUTOREG procedure in SAS.

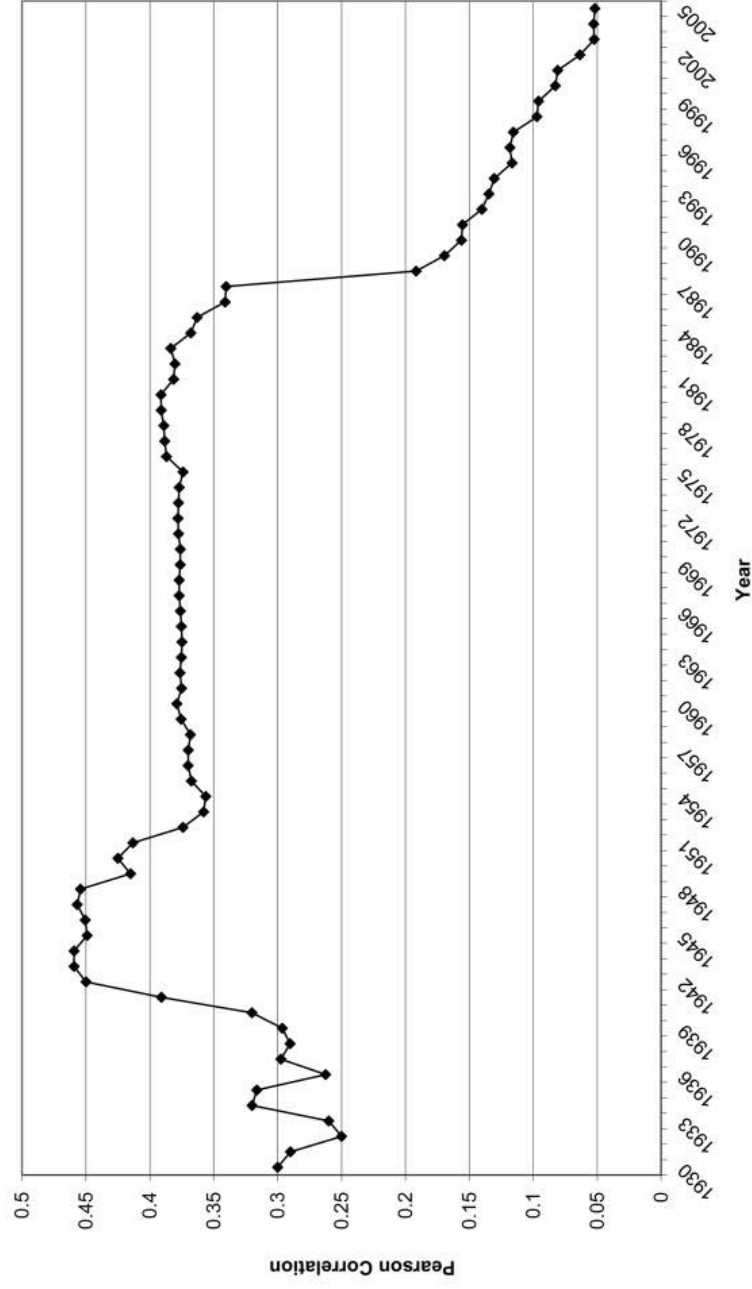


FIG. 2.—Moving Pearson correlation between change in unemployment and change in criminal deportations, 1908 through 1930–2005. Each data point represents the correlation between the two variables between 1908 and the corresponding year. For instance, the first data point is the correlation for the period 1908–30 and the last data point is the correlation for the full period (1908–2005). The figure thus shows how the correlation changes as subsequent years are added.

coefficient before and after 1940. This set of tests, in tandem with our theoretical expectations, suggests that period-specific analyses are warranted.<sup>24</sup>

## RESULTS

Table 1 presents the regression coefficients for our analysis of the full time series and for each period.<sup>25</sup> Beginning with model 1, which shows results for the full 1908–2005 period, only one variable is significantly associated with criminal deportations. Perhaps not surprisingly, criminal deportations are correlated with yearly changes in the imprisonment rate ( $b = .379$ ;  $P < .01$ ). This association suggests that, over the long term, levels of punishment and exclusion tend to rise and fall together. We find no significant association between the change in criminal deportations and changes in the homicide rate, immigration, or the unemployment rate. However, we again note that the relationship between unemployment and deportations is likely contingent on larger legal, bureaucratic, and social shifts that occurred throughout the 20th century, and as such we estimate period-specific models.

Model 2 in table 1 shows the coefficients for the first period, and the results can be summarized succinctly: no covariates are significantly associated with criminal deportations in these early years. The unemployment coefficient is positive and slightly larger than its standard error, but it does not approach statistical significance. We think the lack of a significant correlation during this period is in large part attributable to an underdeveloped deportation apparatus, as discussed above. Nevertheless, the Great Depression years warrant specific attention. Although the association between unemployment and the rate of deportations was not significant for the entire first period and we did not detect a structural break around 1929, the rate of criminal deportations clearly rose during the economic crisis of the 1930s. The pace of criminal deportations also showed a secular increase during the preceding decade, attributable in part to the beginnings of a definable body of deportation legislation and a budding enforcement bureaucracy. Yet the tremendous spike in un-

<sup>24</sup> The Chow test results were based on a bivariate regression model. The test results when using the full model were nearly identical for the 1986–87 breakpoint. The results were also significant for the 1940–41 breakpoint ( $P < .05$ ) when all variables except the incarceration rate were in the model, but the  $F$ -value did not reach a level of significance ( $P < .05$ ) when all variables, including the incarceration rate, were in the model.

<sup>25</sup> The first year of observation is not used in analyses of first-differences, so the total sample size is 97 years.

TABLE 1  
OLS REGRESSION COEFFICIENTS: FIRST-DIFFERENCES IN  
CRIMINAL DEPORTATIONS ON PREDICTOR VARIABLES

	Model 1 (All Years)	Model 2 (1908–40)	Model 3 (1941–86)	Model 4 (1987– 2005)
Labor market:				
$\Delta$ Unemployment rate .....	-.006 (.249)	.049 (.045)	.400* (.155)	2.883 (4.795)
Political context:				
$\Delta$ Republican president .....	-1.403 (1.756)	-.336 (.559)	-.767 (.688)	-2.769 (9.245)
$\Delta$ House of Representative Republicans to Democrats ratio .....	-1.390 (2.231)	.009 (.508)	.003 (1.145)	-55.328* (23.224)
Crime and punishment:				
$\Delta$ Homicide rate .....	.026 (1.200)	.166 (.315)	-.043 (.465)	-6.009 (6.601)
$\Delta$ Imprisonment rate .....	.379** (.072)	.061 (.042)	.069+ (.038)	.729+ (.343)
Immigration:				
$\Delta$ Total new immigrants per million .....	-.0002 (.0004)	.00003 (.00007)	-.002+ (.001)	-.010 (.006)
$\Delta$ New Mexican immigrants per million .....	-.002 (.002)	-.001 (.001)	.004 (.003)	.011 (.008)
Constant .....	-.478 (.616)	.291+ (.162)	-.055 (.217)	-4.181 (5.569)
<i>N</i> .....	97	32	46	19
<i>R</i> <sup>2</sup> .....	.287	.239	.375	.612
<i>F</i> -value .....	5.11**	1.07	3.25**	2.48+

NOTE.—SEs are in parentheses. Criminal deportations are measured as the rate per 100,000 foreign-born population.

+  $P < .10$ .

\*  $P < .05$ .

\*\*  $P < .01$ .

employment in the early 1930s likely contributed to higher levels of deportation as well—despite this relatively limited administrative capacity. This suggestion aligns well with recent and related work on immigration. As Fox (2010, pp. 495–96) notes in her work on social welfare spending by cities on the eve of the Great Depression, the faltering economy fostered resentment toward some immigrants, namely, Mexicans. Agencies designed to provide assistance actually “invited the U.S. Immigration Service to conduct raids in their communities, and they asked them to set up shop in their relief offices, with an eye on deporting dependent Mexicans who had violated immigration laws” (p. 496). It thus seems that local government and nongovernmental agencies became actively involved in deportation at the onset of the depression, which likely contributed to the higher number of removals.

Moving to the postdepression years, model 3 of table 1 reveals a noticeably different pattern from 1941 to 1986, particularly with respect to unemployment. During this four-and-a-half decade stretch of relative stability in deportation law, a larger federal law enforcement bureaucracy, and significant judicial discretion, unemployment emerges as a strong predictor of criminal deportations ( $b = .400$ ;  $P < .05$ ). Figure 3*b* powerfully depicts the close association between unemployment and criminal deportations over this second period, which is noteworthy in at least two respects. First, the year-to-year changes in deportations track remarkably closely with changes in unemployment, a pattern not at all apparent in either figure 3*a* or 3*c*. Indeed, for nearly every year in which unemployment spikes, we witness a corresponding spike in criminal deportations. A separate bivariate regression model (not shown, available upon request) reveals that changes in unemployment explain 26% of the variation in changes in criminal deportations. Second, and equally noteworthy, the correlation depicted in figure 3*b* entails a noticeably small degree of error, with the trend lines in the figure nearly moving in sync. In the multivariate models, this association remains significant even after controlling for related practices concerning punishment (the imprisonment rate) and the treatment of noncitizens (the noncriminal deportation rate; see n. 20).

However, the robust effect of unemployment for the pre-1987 years collapses during the 1987–2005 era of punitive social control represented in model 4 (see also fig. 2 and fig. 3*c*).<sup>26</sup> Neither the economic nor the demographic indicators emerge as significant predictors during this period (in either the multivariate or bivariate [not shown] case). This pattern is not unexpected, given that deportations increased steeply and nearly monotonically while most of the predictor variables fluctuated from year to year during this period. The one exception in model 4 is the partisan composition of the House of Representatives. The significant coefficient indicates that criminal deportations decreased when the House became more Republican. This effect is largely driven by the post-IRCA years when the sharp rise in criminal deportations coincided with a Democratically controlled House. The rate of criminal deportations remained at a historic high after Republicans took control of the House in the mid-1990s, although the rapid increase in deportations had generally leveled off by that point. We also note that the explained variance as indicated by the  $R^2$  is largest in this model. About half of the impressive coefficient of determination in model 4 is attributable to imprisonment, which is

<sup>26</sup> The  $N$  in model 4 (19) is obviously quite small, which affects the standard errors and  $t$ -ratios. We note, however, that Isaac and Griffin (1989) encourage the use of small  $N$ s in periods as opposed to arbitrarily choosing longer periods for the sake of improving the likelihood of statistical significance.



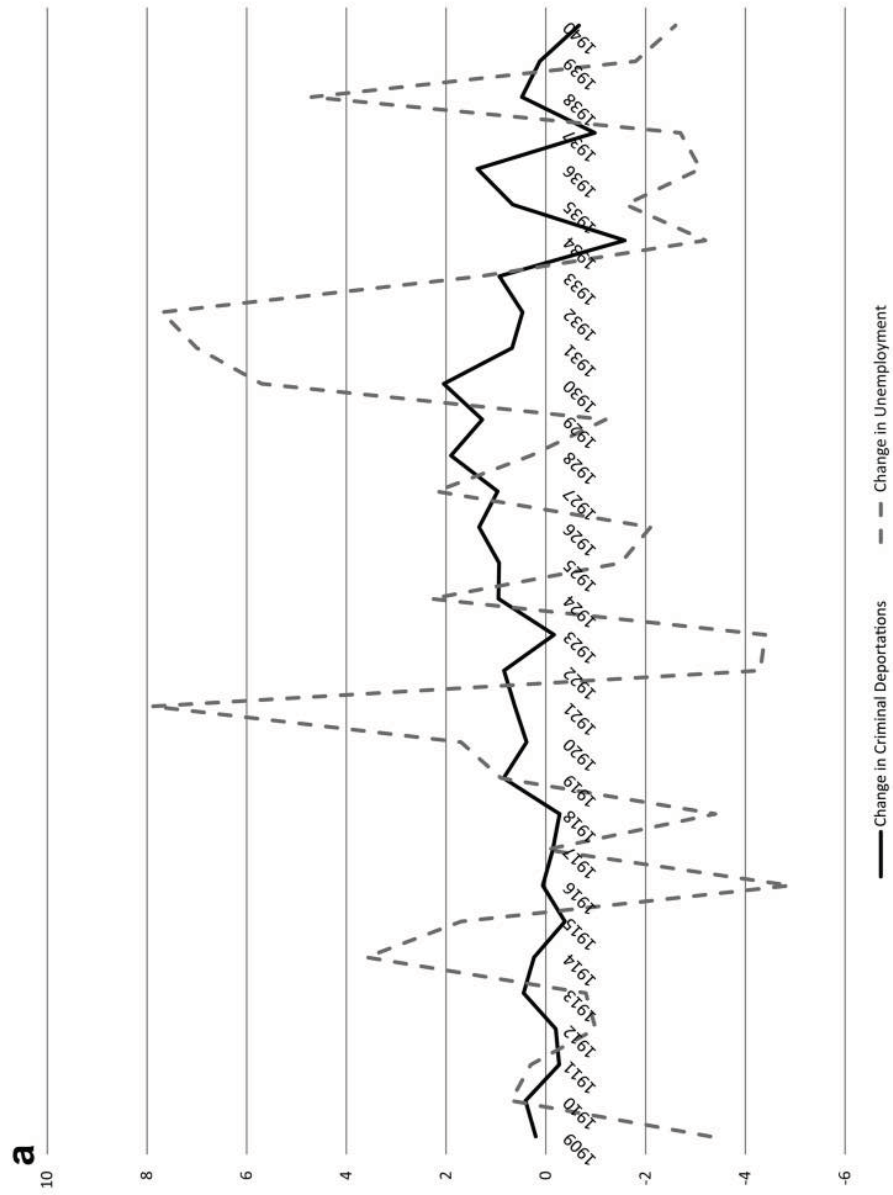


FIG. 3a.—Criminal deportations and unemployment by year, 1909–40

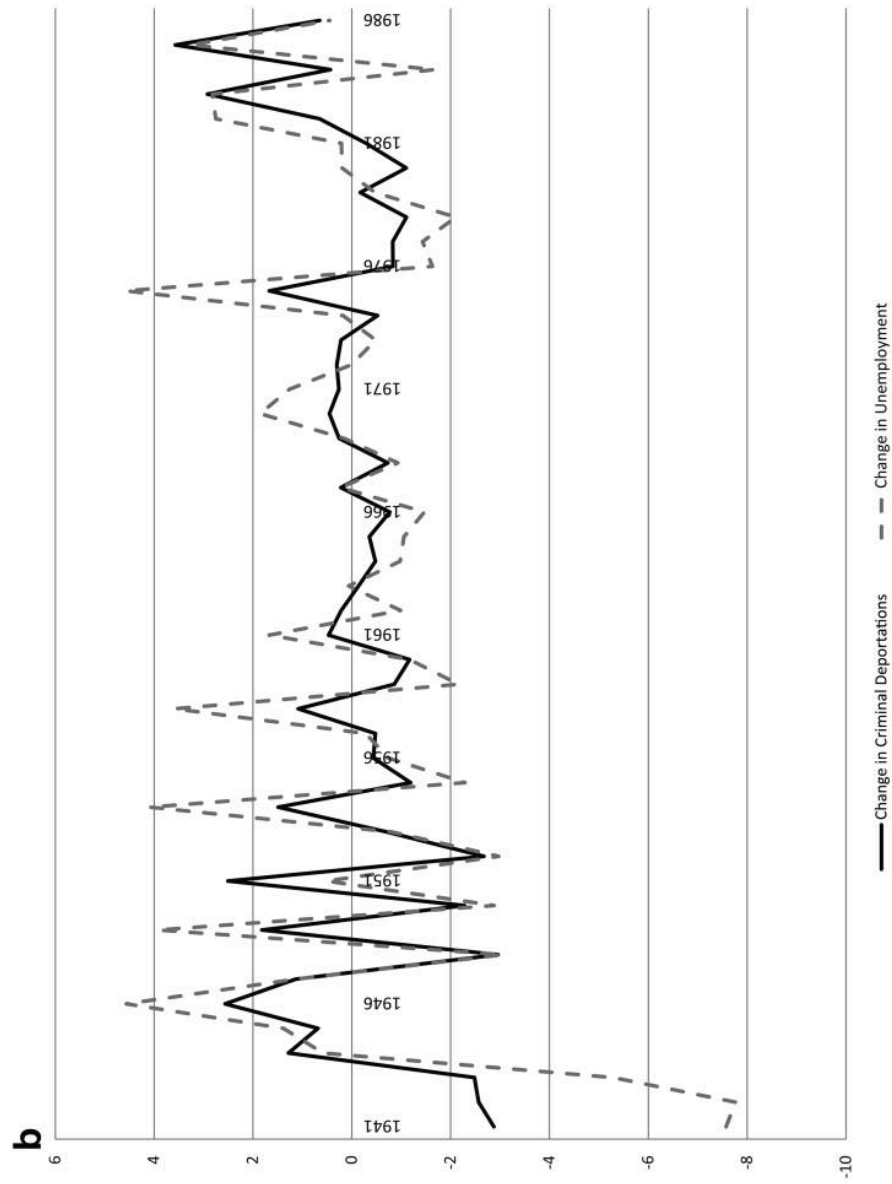


FIG. 3b.—Criminal deportations and unemployment by year, 1941–86

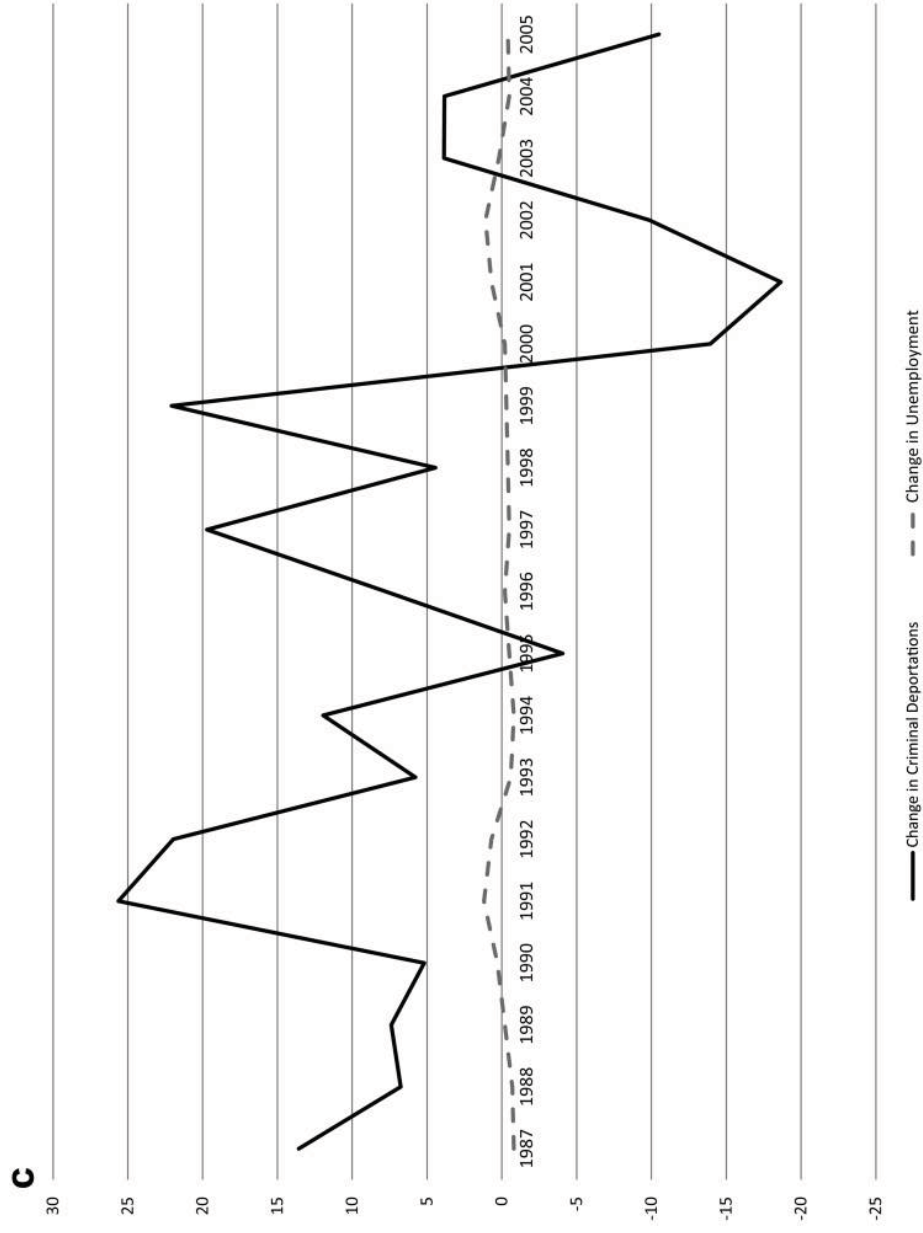


FIG. 3c.—Criminal deportations and unemployment by year, 1987–2005

statistically significant when employing a one-tailed test ( $P < .05$ ;  $t = 2.12$ ).<sup>27</sup> The latter result is wholly consistent with theories that emphasize the sea change in punishment and control since the early 1980s (Feeley and Simon 1992; Beckett and Sasson 2000; Garland 2001; Tonry 2004; Simon 2007). This line of thought emphasizes the security state's focus on managing groups perceived as dangerous, often through incapacitation. Thus, it appears that deportation of noncitizens has become a close ally to the incarceration and social exclusion of citizens during this era, consistent with new work on the modern resurgence of banishment (Beckett and Herbert 2010).

This recent period spans an era in which the number of undocumented migrants in the United States was high by historical standards, and these migrants grew increasingly visible to the public (Massey et al. 2003, p. 47). The number of undocumented immigrants, many crossing the Mexican border, likely explains part of the rise in noncriminal deportations during this period, as many more immigrants were at risk of deportation for improper documentation. Yet, in supplementary analyses (not shown), we find no consistent relationship between the estimated inflow of undocumented migrants and the rate of criminal deportations. Hence, the undocumented population may contribute to the raw number of deportations, but it cannot explain changes in criminal deportations.<sup>28</sup>

### Labor Markets and the Discourse on Immigration and Employment

We next turn to the final question posed by this work, why is unemployment so strongly tied to criminal deportations from 1941 to 1986? As discussed earlier, Melossi (1985, and see also 2008) argues that the discourse surrounding social problems rises, and minority groups and the lower class are more fervently vilified, if and when the economy is performing poorly. This discourse, in turn, makes it more difficult for pros-

<sup>27</sup> A one-tailed test is likely warranted given the clear directional hypothesis and the comparably small  $N$  of 19 in this period. The  $R^2$  is .27 in a bivariate regression model with imprisonment as a predictor (not shown).

<sup>28</sup> We estimated the influx of undocumented migrants dating back to 1990 using data from Passel and colleagues (Passel and Suro 2005, see table a1; Passel and Cohn 2010, see fig. 2). In supplementary analyses we examined the correlation between the estimated flow of undocumented immigrants and both criminal and noncriminal deportations. Few data points are available for these supplementary analyses ( $N = 16$  for years 1990–2005), but the results largely align with expectations. Without taking the first-differences, the per capita rate of undocumented immigrants is significantly associated with both outcomes, although the correlation is stronger for noncriminal deportations. When analyzing first-differences in the outcome variables, the correlation weakens but remains positive for noncriminal deportations but negative (though non-significant) for criminal deportations.

ecutors or judges to justify leniency. We can partially test this idea using *New York Times* articles on employment, immigration, and labor to measure changes in the quantity of public discourse on this theme. It would be consistent with Melossi's thesis—and the hegemonic project suggested by Beckett and Sasson—if we can demonstrate two findings: first, that the unemployment coefficient for the 1941–86 period decreases by a non-trivial degree when adding this measure of public discourse to the model; and, second, that the public discourse measure is independently associated with criminal deportations.

The results of this analysis are shown in a set of reduced models in table 2. Model 1 serves as a baseline, revealing a significant and positive unemployment coefficient for a first-differences model for 1947–86 ( $b = .306$ ;  $P < .05$ , one-tailed test).<sup>29</sup> We begin with 1947 in this case because the *Times* data are first available from the Policy Agendas Project in 1946, and we lose the first year in calculating the first-difference. Model 2 adds the change in the number of *Times* articles discussing employment, immigration, and labor to the model, revealing two findings of interest. First, we observe a significant association between newspaper coverage and criminal deportations during this period ( $b = .033$ ;  $P < .05$ ), and this coefficient remains practically unchanged when adding the full set of control variables to the model (see model 4). Second, the unemployment effect is reduced by about 12% when newspaper coverage is added to the model. It thus appears that the discourse on immigration and labor rises in times of high unemployment, and this discourse is associated with changes in criminal deportations. Model 3 suggests that change in the perception of crime as a social problem, as measured by Gallup data, has little effect on criminal deportations or the unemployment coefficient during this period. Hence, public concerns about immigration and labor appear more consequential than concerns about crime in explaining deportations in this era.<sup>30</sup>

Finally, and consistent with recent arguments about crime and modern governance (Simon 2007), perceptions of crime as a serious problem (as indicated by the Gallup data) are associated with criminal deportations during the final period (post-1986;  $b = .940$ ), although the discourse on

<sup>29</sup> We refer to a one-tailed test here because of the clear directional hypotheses in these models.

<sup>30</sup> We also considered potential interactions between unemployment and the media and opinion variables. Consistent with our conceptual framework, we find greater evidence that media discourse serves as a mediator (as shown in table 2) than a moderator (as would be the case under an interaction coding).

TABLE 2  
OLS REGRESSION COEFFICIENTS: FIRST-DIFFERENCES IN CRIMINAL DEPORTATIONS  
ON PUBLIC OPINION AND DISCOURSE INDICATORS

	Model 1 (1947–86)	Model 2 (1947–86)	Model 3 (1947–86)	Model 4 (1947–86)	Model 5 (Post-1986)
$\Delta$ Unemployment rate .....	.306* (.179)	.269 (.171)	.267 (.175)	.189 (.163)	3.549 (5.410)
$\Delta$ <i>New York Times</i> articles on labor and immigra- tion .....		.033* (.014)	.034* (.016)	.039* (.013)	.105 (.507)
$\Delta$ Gallup poll— crime as most important prob- lem .....			.030 (.060)		.940* (.455)
Constant .....	-.017 (.209)	.018 (.199)	.020 (.208)	-.003 (.213)	6.466* (2.783)
<i>N</i> .....	40	40	39	40	19
<i>R</i> <sup>2</sup> .....	.071	.189	.180	.484	.243
<i>F</i> -value	2.92 <sup>+</sup>	4.32*	2.57 <sup>+</sup>	3.63*	1.61
Includes control variables (from table 1)? .....	No	No	No	Yes	No

NOTE.—SEs are in parentheses. Model 3 has one fewer case because of a missing data point (1947) on the Gallup Poll indicator. Criminal deportations are measured as the rate per 100,000 foreign-born population.

<sup>+</sup>  $P < .10$  (one-tailed test for individual coefficient).

\*  $P < .05$ .

immigration and labor is not remotely significant during the final period.<sup>31</sup> This pattern of findings suggests that immigration and deportation enforcement became increasingly linked with public opinion about crime and punishment in what Garland (2001) and others term the “late modern era,” a period characterized by concerns about crime in everyday life.

## DISCUSSION

Although research is increasingly drawing attention to the implementation and enforcement of deportation law (Ellermann 2009), the present work is among the first to systematically assess the macro-level determinants of U.S. criminal deportations over the past century. Our inquiry into the

<sup>31</sup> We omit the control variables because of the small *N* in model 5. We note, however, that the Gallup poll coefficient remains positive and statistically significant ( $P < .05$ , one-tailed) when controlling for change in the incarceration rate, which may also be associated with public opinion and was significantly associated with deportations in model 4 of table 1.



banishment of noncitizen criminals from the United States suggests that this practice has been highly variable over time and that the number of persons affected by criminal deportation is high and rising. We find that surplus labor is a strong determinant of criminal deportations but only under two historical conditions: (*a*) when the federal law enforcement bureaucracy was highly organized and the Alien Registration Act allowed for a more efficient accounting of noncitizen residents and (*b*) when judicial discretion was considerable and judges could grant discretionary relief to noncitizen criminals facing potential deportation. To this end, unemployment was most consequential and closely correlated with criminal deportations during the four decades following World War II.

Our work is in many ways consistent with historical accounts of the economy and banishment, such as prior investigations of British transportation. Just as labor market conditions in Britain and colonial America partly dictated whether convicts were shipped across the Atlantic, we find that labor surpluses during the middle part of the 20th century similarly influenced U.S. expulsions for criminal behavior. Yet, consistent with prior work on incarceration (Michalowski and Carlson 1999), we find a contingent effect of labor market conditions. We concur with Michalowski and Carlson's assessment that an immutable association between punishment and labor markets over time is untenable and that theoretical arguments in this tradition should give due attention to legal and political shifts and perhaps also to qualitative changes in labor markets that are not at the heart of our argument.

Our findings are also consistent with Melossi's suggestion that the discourse on marginalized populations, in this case immigrants, surges during economic downturns, perhaps as part of a hegemonic strategy to secure popular consent. We found that the effect of unemployment on criminal deportations during the post-World War II years was partly mediated—approximately 12%—by the discourse on immigration and labor, as measured by newspaper coverage of such issues. Although we acknowledge that our interpretation entails a degree of speculation, we contend that impassioned discourse may yield strict justice, especially during periods of economic contraction. In this case, press accounts of labor, employment, and immigration may have rendered judges more susceptible to scrutiny and public pressure and thus less likely to show leniency during hard times.

Notably, and in contrast to the effect of labor markets, we found no evidence linking criminal deportations with crime rates. Likewise, the analysis offered little support for a partisan political explanation. It is perhaps not surprising that partisanship was inconsequential. Much of the punitive immigration legislation occurred during the 1980s and 1990s when Democratic politicians were closing the gap with Republicans on

law and order issues (Beckett 1997). Equally important, and as discussed in convincing detail by Tichenor (2002) and others (Calavita 1989; Freeman 1995; Zolberg 2006), immigration policy has long been replete with intra- and interparty rifts, with laws frequently the products of political compromises that can appear disjointed (Kanstroom 2007). For example, recent legislation allows for admitting more immigrants and eases the requirements for attaining citizenship, while it simultaneously mandates tougher sanctions and streamlining deportation procedures. To the extent that immigration laws are the result of political compromises entailing both lenient and punitive provisions, it is difficult to identify partisan control as the driving force behind deportations.

The legislation in the 1980s and 1990s, along with the more punitive public sentiment of the time (Tonry 2004), might also account for two unique findings in the post-1986 period. First, as shown in table 1, the imprisonment rate explained a healthy proportion of the variation in criminal deportations during the latter period. We characterized this era as one of limited judicial discretion, such that extralegal factors could exert little influence when judges' hands were bound so tightly by statutory guidelines. Second, this was also a period of immense increases in the number of criminal deportations, which we attribute in part to a more general punitive turn in U.S. punishment and welfare policy.

The data are consistent with this explanation, with the steep rise in deportations paralleling larger strategies for managing dangerous groups (Feeley and Simon 1992) and the emergence of a "culture of control" (Garland 2001) in American society. Garland (2001), for instance, argues that a backlash against the rehabilitative ideal, categorical changes in labor market structure, and an increased reliance on "economic style" reasoning characterize this era. The recent incarceration boom is thus the product of a larger cultural shift rather than simple year-to-year fluctuations in the economy or partisan political control (see also Feeley and Simon 1992; Beckett and Herbert 2010). So too with the recent deportation boom: as a harsh and exclusionary punishment targeting marginalized populations, criminal deportation represents an additional manifestation of this punitive culture.

We close by noting some limitations and suggesting directions for future work. While we investigate the contextual role of political power and discourse on criminal deportations, our analysis cannot directly assess the underlying intent of a given political agenda or discourse. A Gramscian account is largely consistent with our results, but our data cannot clearly distinguish between discourse bubbling up from populist concerns and discourse generated by elites as part of a hegemonic strategy to portray immigrants as dangerous. Future work would benefit from a focus on the sources, content, and motivation behind such discourse.

Another area for future consideration is the role of noncitizens. One limitation in our analysis is that we could not statistically control for the number of crimes perpetrated by noncitizens. We instead relied on the homicide rate as a proxy for the crime rate. If the crimes of noncitizens are different—either substantively or in their trend over time—than the crimes of citizens, then we may have crudely estimated the number of eligible criminal deportees in each year. In addition, while we took steps to empirically explain the unemployment effect with newspaper coverage, information about judicial decision making is difficult to measure directly. As such, part of our interpretations rest on prior work that has investigated how individuals, in particular legal decision makers, respond to macroeconomic conditions. Additionally, one area still ripe for future work is the impact of 9/11. In our view, many restrictive policies characteristic of the post 9/11 environment—both with regard to detainment and deportation of noncitizens—are consistent with the culture of control we describe. Moreover, immigration judges are housed in the executive branch of the U.S. government, a branch that witnessed a remarkable expansion of power with the passage of laws such as the PATRIOT Act. Given our historical emphasis and the comparatively short time since 9/11, additional work is needed to more fully address executive power during the post-9/11 period.

Mindful of these limitations, we nonetheless have provided the first empirical analysis of the determinants of criminal deportations and highlighted conditions under which the economy is a salient predictor of punitive social control. Much like work on the origins of deportation law (Kanstroom 2007), our analysis of the enforcement of these statutes suggests that surplus labor, at times, plays a significant role. Future work might build on the present research by further investigating the treatment of noncitizens in immigration courts, for instance, by examining deportation cases or political asylum dispositions at the case level. With respect to the latter, a cursory look at asylum decisions suggests that, even within the same court, the likelihood of having an asylum claim denied varies from less than 10% to over 90% depending on the judge (Transactional Records Access Clearinghouse 2007). Such disparities have been infrequently investigated in sociolegal scholarship, and it remains an open question whether characteristics of judges, claimants, or macro-level political and economic conditions influence such outcomes.

Given the number of noncitizens residing in the country and the expansion of what Kanstroom (2007) calls postentry social control, the sanctioning of immigrant populations is a potentially fruitful, yet underdeveloped, area of inquiry that speaks to pressing social problems while informing long-standing theoretical debates. Finally, future work might investigate the collateral consequences of deportations. Prior research in this area has focused on the political repercussions of criminal convictions for citizens (Uggen and Manza 2002), while research on the life-changing

ramifications of criminal processing for noncitizens (see, e.g., *Padilla v. Kentucky* 2009) has been notably absent.

After a 1948 plane crash in California's Los Gatos Canyon killed 28 deportees, folksinger Woody Guthrie offered poignant commentary on their anonymity. When press accounts reported only the names of the U.S. guard and flight crew, he wrote, "You won't have your names when you ride the big airplane / All they will call you will be 'deportees.'" Six decades later, hundreds of thousands of immigrants to the United States have been subject to deportation, yet their stories remain largely untold. We here examined the extent to which economic and political forces were associated with criminal deportation, yet there is room for far more research in this vein. For instance, to what extent does mass deportation subsequently influence labor markets? Do economic conditions influence the social control of noncitizens differently than citizens convicted of crimes? And what factors influence the decision to deport immigrants for reasons other than criminal behavior? In light of the increasing centrality of immigrants to American culture, politics, and labor markets, understanding why and how they are banished becomes all the more important.

## APPENDIX A

TABLE A1  
DESCRIPTIVE STATISTICS

Variable	Mean	SD
Δ Criminal deportation rate per 100,000 foreign born .....	1.17	5.93
Δ Homicide rate .....	.008	.494
Δ Imprisonment rate .....	4.34	7.90
Δ Total new immigrants per million .....	-51.96	1,438.91
Δ New Mexican immigrants per million .....	4.91	376.63
Δ Unemployment rate .....	-.04	2.32
Δ Republican president .....	0	.32
Δ House of Representatives Republicans to Democrats ratio ...	-.002	.25
Δ <i>New York Times</i> articles on labor and immigration* .....	-.98	14.02
Δ Gallup poll—crime as most important problem* .....	.06	3.48

NOTE.—*N* = 97 years unless otherwise noted.

\* Descriptive statistics for this variable are for the period 1947–86.

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