

Essay on criminal justice system

[Law](#), [Criminal Justice](#)



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Introduction

Crime is a problem that persists in every society in spite of the advancements that the society has made socially and economically. The problem of crime is a reason for major concerns for both individuals and governments. For instance a survey carried out in 2008 in the United States of America showed that 50% of the respondents were at one time or another worried that burglars would attack their homes or their cars would be vandalized by criminals. They were also worried that the crime rates in the nation had gone up considerably over the past one year.

The concerns are justified since the United States government estimates that about 21 million dollars was lost in 2008 alone through violent and property crimes. It also estimates that in any year, about 2% of the populace is a victim of violent crime while another 13% were the victim of a property crime. These statistics are indeed proof that each country requires a criminal justice system in order to address the problem of crime in their countries. Most of the countries including Australia utilize an adversarial approach in trying criminals in a court of law.

The adversarial criminal justice system has several advantages and disadvantages. Its major advantage is that it recognizes the right of the individual to have a say in the court proceedings instituted against them. It also ensures that the public is duly involved in the dispensation of justice through the inclusion of juries. On the other hand, the adversarial criminal justice system can be quite expensive since the hearings involve lengthy narrations that are costly since the state has to cater for the expenses of the jury. It could also be unjust to the accused since they are charged with the duty of burden of proof but they may lack the resources that they require to prove their case .

The strengths of the current criminal justice system

The adversarial criminal justice system has in place for several years now. It is used by most Western countries including the United States of America and Canada. It allows the defendant to plead guilty hence grants the defendant contractual freedom. In some legal quarters it has been argued that the adversarial system of criminal justice is more liberal thus allows the individual has the right to right to give up his or her procedural rights. This freedom gives room for the defendant to enter a bargain in exchange for a guilty plea.

The adversarial system gives the accused the right to present evidence to contradict to counter the case that has been presented against him or her. This contradictory system allows the defendant to present their version of the said events hence they can be heard. They could verify facts that the

opposing side has presented to their detriment thus they stand a chance of proving their innocence.

One of the major advantages of the criminal justice system is that the defendant has the right to a fairly speed trial. This right could be waived if the defendant desires extra time to get prepared for the impending trial. If the defendant is facing charges that are punishable by more than six months in prison, he has the right to a jury trial, which is public. The defendant can opt to have a bench trial during which a judge is in charge of the fact-finding purpose of the jury.

The adversarial criminal justice system recognizes the right of a convicted defendant to appeal his conviction. If the defendant is termed guilty with in reference to some or all of the charges brought forth against him, he has the right to appeal in court of appeal. There are various reasons that the defendant might cite in his appeal. Among the reasons that might be cited are the inclusion of inadmissible evidence, the lack of proof beyond reasonable doubt to hold up the guilty verdict and slight or major errors in the judge's charge to the jury.

The jury is independently appointed thus in some countries such as Australia they have the right to acquit the accused. They are charged with giving an unbiased verdict based on the facts presented to them. This means that there is an element of subjectivity in the case due to the presence of the jury.

Having a jury present during the course of a trial enhances the public trust in the criminal justice system. It gives the civilian an opportunity to be part and parcel of the dispensation of justice. This makes them responsible citizens who seek to improve their society. They are also vital in making sure that the justice system is accountable to the public in its dealings with those purported to be involved in criminal activities. By having a jury present during a trial, the public can no longer claim that the state has alienated them from the justice system.

The weaknesses of the current criminal justice system

The adversarial criminal system which is characterized by prosecution and disposition has often been termed as biased. This is because it can be the subject of manipulation by since the parties in question are in charge of the forensic process. The government through its state agencies has very little involvement in the search for the truth in a given case. Justice can be denied because the prosecution can opt to pursue its convictions other than the truth. The adjudication in a particular matter is the role of judges who remain passive in the course of the court proceedings since they are neither involved nor responsible for identification of the truth. This means that the adversarial criminal justice system is devoid of a neutral forensic process.

It has also been argued that the system has the potential of being in favor of the accused. This is because of a conservative view towards the legal system that ten guilty people being acquitted is better than one person being convicted. As a result, there are too many guilty people being acquitted as the system favors them. In addition to that, the system is fallible with regard

to the certain classes of offenders. Affluent and smart criminals can easily manipulate the system in various ways. They can use the rules of evidence, the passiveness of the judges and the party prosecution to their advantage hence getting away with their criminal activities.

The adversarial system insists on getting a firsthand narration of events from the witnesses during the trial. This gives room for manipulation of the testimony upon cross examination by the opposing side. In addition, the witness has their personal biases hence their account might not be representation of the truth. The narration of events by the witnesses also takes up a lot of time thus this cause a delay of justice. There is also party control during the pre- trial stage with little intervention from the judges. The congruence of these two factors results in further delay of justice. This means that whatever side has a more convincing argument has a better opportunity of winning the trial. This places an emphasis on competition rather than on finding the truth.

There is also considerable amount of time that passes between the time that the alleged offence was committed, the trial and the final adjudication of the matter by a judge. This lapse of time subjects the parties involved to influence by external factors that might impede the dispensation of justice. The witnesses in particular can forget the exact sequence of the events thus they might give altered testimonies. They could also be approached by other people involved with the trial in order to change their testimonies.

Party prosecution hands the responsibility of finding and adducing the truth to the accused. If the accused does not have the sufficient resources in

terms of money, time and legal counsel, the burden of proof might prove elusive for them. The truth might also be found because all the evidence that is presented in the court is from the prosecution. This means that quite often some facts may be omitted which would tilt the outcome of the trial. Such omissions are costly since someone may be convicted yet they are innocent.

The system has room for plea bargaining. This could be detrimental to the cause of justice since it might result in an excessive concentration on confessions. The police have been known to use unacceptable methods to obtain confessions since a confession is regarded as a basis for conviction. The procedure of guilty plea also lacks the vote of confidence from the public because the system is seen as system on "sale" where offenders can get off lightly if they buy their way out through pleas.

Juries can taint the efficacy of the criminal justice system. The jury members might want their obligation to draw to an end as soon as possible so that they can resume their lives as soon as possible. This could prompt them to come up with a rash verdict hence they might omit key aspects of the case presented to them. In addition, some of the laws that govern the secrecy of the jury have the potential of harming innocent people. They could remain convicted because they are not allowed to question how the jury came to their verdict.

The criminal justice system is inclined towards handing out sentences that are far too long for crimes that are relatively minor. A report done recently by the Economist shows that most petty drug dealers have received longer and harsher sentences yet majority of them have not exhibited violent

tendencies hence would be better off in drug treatment programs. It is quite common to find people who have committed drug offenses serving longer sentences than they would if they were involved in violent crimes, or even manslaughter. This can be attributed to extremely harsh sentencing laws that stripped the judges of the powers and handed it to prosecutors.

A jury trial is marked by continuous oral presentation of the facts regarding the trial by the opposing sides. In the course of the narration, it is possible for the jury members to lose track of the facts being presented to them. This could hamper the delivery of justice in the end. This is an endeavor that is not only laborious but it also time consuming. It might take several months for the trial to come to an end. During this period, the jury incurs expenses such as hotel charges, meal expense and the like. All this expenses are met by the state making the trial an economic burden to the taxpayer.

In conclusion the adversarial criminal justice system that is employed Australia has its merits and its demerits , it has worked to some extent but it can be made better or improved in order to make it more effective in the fight against crime.. Its major advantage is that it recognizes the right of the individual to have a say in the court proceedings instituted against them. It also ensures that the public is duly involved in the dispensation of justice through the inclusion of juries. On the other hand, the adversarial criminal justice system can be quite expensive since the hearings involve lengthy narrations that are costly since the state has to carter for the expenses of the jury. It could also be unjust to the accused since they are charged with

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References

- Lynch, J. (2005). Crime in international perspective. Oakland: ICS Press. pp 45-57
- Mosher, C., Miethe, T., & Philips, a. D. (2002). The Mismeasure of Crime. Oakland: Sage, pp 34-79
- Neapolitan, J. (2007). Cross-national crime. Westport: Greenwood press, 78-100
- Reichel, P. (2002). Comparative Criminal Justice Systems: A Topical Approach. Upper Saddle River: Prentice Hall, pp 30-43
- Statistics, U. B. (2009, May 20). Crime in the United States. Retrieved July Saturday, 27, from <http://www.ojp.usdoj.gov/bjs>: <http://www.ojp.usdoj.gov/bjs>
- van Dijk, J. a. (2007). Piecing Together the Cross-National Crime Puzzle. National Institute of Justice Journal , 190-203.
- Wyngaert, V. (1993). Criminal Procedural Systems in the European Community. London: Buttersworth, pp 44-56