

Herbert packer: crime control model



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Herbert Packer's Crime – Control Model and Due Process Model

Herbert Packer's Crime – Control Model of Criminal Justice is More Needed Today Than the Due Process Model of Deterring Crime.

In contemporary society, criminal justice is defined as government's policy and legal obligations to ensure the accused and the victim are treated justly by the law enforcement agencies. Criminal justice system, however, varies from government to government depending on the inclination taken by the law enforcers in deterring crime. Indeed the major work of criminal justice is doing justice, controlling crime and preventing crime (Cole, Smith, DeJong, 2012, pg, 126). It is achieved through rules and regulations of justice institutions, arresting, prosecuting and punishing offenders and incorporating the efforts of the citizens in crime prevention. For criminal justice to effectively achieve its goals, the system adopts a model which is constitutionally and procedurally applicable. The most common model is Herbert Packer's crime-control model and due process model.

Crime – Control Model

According to Bibas (2012, pg, 30), crime-control model is based on the need to convict the guilty and do so accurately without delay, and at the same breath ensure efficiency. Law enforcers have a duty to avoid to be seen going against the law, since they too cannot escape scrutiny from the legal representatives of the victims. It is aimed at reducing incidence of crime within the society without considering or curtailing accused individual's rights. It increases the prosecutorial powers of law enforcement agencies and believes that crime can be reduced by arresting and punishing the offender. Jaishankar (2009, pg, 261) explains the crime control model as the

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suppression of criminal activities without any delays, it allows for extrajudicial processes so long as the offender is convicted. In this model, societal comfort overrides individual rights and, therefore, the government is obliged to do anything to protect the society. The failure of the law enforcement agencies to eliminate the occurrence of criminal conducts is viewed as a lapse in public order and deterioration in human freedom (Jaishankar, 2009, pg, 261). In order for the crime –control model to achieve its intentions, efficiency must be paramount within the criminal justice system. The system should have the capacity to apprehend, try, convict and dispose of criminal of offenders. Unlike the due process model, the crime control model is swift, since it works prior to an actual crime (Purpura, 2011, pg, 164); the government’s burden of proof is minimal compared to other models (Hall, 2014, pg, 337).

The Due Process Model

The due process model places emphasis on the integrity of human rights, factual guilt and the fairness of the process (Hall, 2014, pg, 336). It combines the liberal criminology and the general procedural fairness for the accused, since his arrest, through the prosecution (Siegel, 2008, pg, 478). Generally, this model is founded on the need to adhere to individual justice, treatment and rehabilitation of the guilty. Whenever discretion in the criminal justice exists, then the accused civil rights should be protected in all circumstances (Siegel, 2008, pg, 478). The most important consideration in the due process model is the supreme protection of individual rights; other efficiency factors like cost, speed, identifying and punishing offenders are a secondary consideration. Compared to the crime control model, due process model has

a cumbersome process with low efficiency; the conviction standard is legal and factual and, therefore, the burden of proof must be convinced beyond doubt. (Hall, 2014, pg, 337). Although the government has a high burden of proof, it has a leeway to intrusions; for instance, it requires minimal evidence to institute a search for a property than bind a defendant over to trial (Hall, 2014, pg, 337).

Advocates for this model are protectors of civil rights and often view law enforcement officers as violators of constitutional rights (Siegel, 2008, pg, 478). There is a notion that the minority and the poor are subjected to unfair treatment by the law. This perception is triggered by statistical data that indicate the poor and the marginalized groups are the most maltreated in the criminal justice system. It aims at protecting citizens from those who punish and treat them without regarding their constitutional rights. Many situations have been documented showing defendants who lacked resources suffering a wrong conviction only to be exonerated later when DNA is done (Siegel, 2008, pg, 478). In summary the due process model centers on accuracy in freeing the innocent, fairness and rights (Bibas, 2012, pg, 30).

Parker's crime – control model and the due process model are valuable and enable civil forfeiture to be understood and analyzed (Jaishankar, 2009, pg, 261). However, the two models have teething problems noted, firstly, crime control is the ultimate goal of criminal justice and, therefore, anything contrary to that tempers with this goal (Jaishankar, 2009, pg, 262). Secondly, the due process model should not be compared with crime –control model because the former facilitates the achievement of the latter (Jaishankar, 2009, pg, 262). In the due process model the accused is perceived innocent

until proven in a court of law, unlike the crime control model where the arrested should be punished.

Supporting Crime – Control Model to Deter Crime Today

In the two models, crime control model is more needed now than due process model in deterring crime. Research has indicated that criminal activities are on the rise globally than ever recorded in the history of man. Lynch (2004, pg, 59) indicates an increased incidence of crime reported in the unified crime reports in the United States of America. These statistics can be used to give a global projection of crime rate; increasing rate of crime in the USA can be extrapolated to indicate an increase in crime rates in the world. This is exemplified by the different technology oriented crimes like cyber-bullying, theft of information from the internet, identity theft, credit card fraud, bank fraud, telemarketing fraud, counterfeiting and terrorism all are new types of crime being experienced globally. In addition, transnational crimes have increased due to relative free movement of people across countries. This scenario indicates a clear need to have efficient and reliable mechanisms of dealing with this trend; such mechanism can be employed by the criminal justice system by adopting crime-control model.

United Nations Office on Drugs and Crime (UNODC) reports that due to increase in crime the office was established; it helps in capacity building of policy makers, practitioners in the area of crime prevention, experts, civil society and media in fighting the new wave. Indeed, certain individual rights must be sacrificed for the sake of the greater good. Since the inception of the term ‘War on Crime’ many crime control strategies which include increased patrols in high crime areas, traffic stops, undercover sting

operations, aggressive raids and wiretapping surveillance has been employed. All these activities have minimal consideration of individual rights, but ultimately the society benefits more by peaceful existence. Like any other war, the fight against crime has casualties; however, the society eventually lives in peace.

The proponents of due process model ignore the fact that the society is greater than an individual is. In any society, the guilty should not be protected at the expense of the innocent. For example, in America after the September 11th terrorist attack, many lives were lost and suffering caused due to the terrorist plans, the government had to make a decision whether it is prudent to protect the rights of a few individuals or to ensure the safety of all Americans. It is important to recognize that on numerous occasions people are faced with ideological challenges to make decisions about. One such issue occurred after September 11th when it was mandatory to identify, search and eliminate terrorists.

The society due to increasing crime rates has complained about the police's pace of conducting investigations. This is a weakness of the due process model, particularly if the police are not certain whether a crime was committed (Jones and Bartlett Publishers, 2004, pg 78). Sometimes prosecutors face challenges where substantial evidence against the defendant is lacking, but the accused committed the crime; under due process model, such accused should be exonerated (Jones and Bartlett Publishers, 2004, pg 78). Most of the accused released due to lack of credible evidence continue perpetrating crime in the society, however, some of them are threatened and intimidated.

In the old adage, 'two wrongs do not make a right' one would argue that denial of the accused individual rights is not right even if he indeed has done wrong. Importantly, strategies, crime perpetrators engage in are dynamic (Braga, Flynn, Kelling and Cole, 2011, pg, 22), this requires the criminal justice to be dynamic in its approach including being inhuman in some aspects. The latest crime control mechanism, which involved eavesdropping on Germany's chancellor conversations, was an infringement on her individual rights and freedom of association. It led to an international outcry, however, that was part of the contemporary strategy to control crime in an era when criminal activities have evolved.

Around the world, there is a criminal justice shift towards crime control model (Braga, et. al. 2011, pg, 29). This is a proactive approach where suspects prior to committing a crime are arrested, prosecuted to isolate them from the society. Modern day concentration camps exist in many countries, including but not to America's Guantanamo Bay, the essence is isolating crime perpetrators and letting the society continue with normal lives.

Conclusion

Seemingly, compared to due process model, which is more sympathetic to the innocent; crime-control model is dynamic, proactive and helps maintain order in the society. It is important as it is used in contemporary criminal justice systems to deter many people who may have intentions of committing a crime. The strategies employed will enable many governments to efficiently and affordably deter the occurrence of crime in their areas of jurisdiction. Transnational movement of people influenced by the

globalization result to many offenders evading justice where they perpetrated. The Crime – control model is suitable in ensuring fast dispensation of justice.

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