
A COMPARATIVE STUDY OF THE DUE PROCESS AND CRIME CONTROL MODELS: ANALYSING THEORETICAL FOUNDATIONS, GLOBAL PRACTICES, AND THE INDIAN CRIMINAL JUSTICE FRAMEWORK

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ABSTRACT

This study investigates the two fundamental models of criminal justice- the Crime Control Model and the Due Process Model- and assesses their theoretical principles, operational goals, and usefulness in modern legal contexts. The Crime Control Model focuses on efficiency, speedy justice, and strong state authority in preventing and suppressing criminal behaviour, whereas the Due Process Model prioritises procedural protections, fairness, and the protection of individual rights from potential governmental abuse. The paper conducts a rigorous comparative analysis to determine how these models differ, where they coincide, and how modern criminal justice systems strive to reconcile both ideas. The research further focuses on the Indian criminal justice system to analyse the extent to which each model influences constitutional safeguards, statute provisions, and judicial interpretations. The transformative influence of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA), 2023, on India's changing legal landscape is highlighted. By comparing India's approach with key worldwide jurisdictions, the United States, the United Kingdom, France, and Russia, the study emphasises distinct legal traditions and institutional practices that impact the adoption of either model in different socio-political circumstances.

The paper also notes serious difficulties inside the Indian system, including procedural delays, investigation failures, custodial rights breaches, and rising concerns regarding technology-driven police. The report ends with suggestions to assist India in creating a more robust and balanced criminal justice system that guarantees successful crime prevention while respecting fundamental rights and constitutional principles.

Keywords: Procedural Justice; Individual Rights; State Security; Criminal Procedure; Global Perspectives.

Introduction

The criminal justice system is a comprehensive framework of substantive and procedural laws that govern the administration of justice within a jurisdiction. It comprises a vast array of detailed and specific rules and regulations designed to maintain order and deliver justice. For these rules to function cohesively, they must be grounded in an overarching philosophy or set of objectives. This foundational philosophy ensures consistency and coherence in the formulation and implementation of individual laws. Without a clearly defined guiding principle, the system risks becoming fragmented and inconsistent. Consequently, there has been significant debate about the ideal philosophy that should underpin a criminal justice system. This philosophy provides a definitive framework for evaluating the desirability and feasibility of specific rules, enabling the creation of a structured and principled legal system. Such a macro-structuring approach is referred to as a "model" of criminal justice. Unlike individual rules, a model is centred on core values and principles that guide the system as a whole. Various legal scholars have proposed different models, each prioritising distinct values and principles.

The Indian criminal justice system, for instance, is a complex structure aimed at maintaining law and order while ensuring justice for all citizens. Within this system, two prominent models - Crime Control and Due Process - play pivotal roles in shaping legal policies and practices. The Crime Control Model focuses on the swift and efficient suppression of criminal activity, prioritising public safety and societal order. Proponents of this model argue that a robust emphasis on law enforcement and rapid prosecution is essential to deter crime and protect communities. In contrast, the Due Process Model emphasises the protection of individual rights and legal safeguards. It advocates for fair treatment of all individuals within the justice system, ensuring that legal processes are just and equitable. This model seeks to prevent wrongful convictions and uphold the principle that justice must be administered fairly, even if it means a slower and more meticulous process. Together, these models represent the ongoing tension between efficiency and fairness in the pursuit of justice.

Models of the Criminal Justice System

Herbert Packer, an American legal scholar, made one of the most successful attempts to conceptualise models of the criminal justice system through his Crime Control and

Due Process models. These frameworks have set the standard for understanding criminal justice processes for over a generation. While many have tried to expand or replace Packer's models, none have achieved the same level of influence or durability. Critics, however, have successfully deconstructed aspects of his models. Packer's two models can be vividly described using metaphors: the Crime Control Model operates like a high-speed "*assembly-line conveyor belt*," where the police and prosecutors work efficiently to produce guilty pleas. In contrast, the Due Process Model resembles an "*obstacle course*," where defence attorneys challenge the prosecution by arguing that the accused's rights have been violated.¹ The Crime Control Model prioritises efficiency, while the Due Process Model emphasises fairness and "quality control" in the justice process. The criminal justice system is inherently complex, tasked with punishing offenders while balancing efficiency and the protection of individual rights. Society expects the system to act swiftly, yet it also demands that justice be delivered fairly without infringing on constitutional rights. In the 1960s, Packer's models emerged as competing ideologies, reflecting these dual expectations.² The Crime Control Model prioritises public safety and swift punishment, while the Due Process Model focuses on safeguarding individual rights and ensuring procedural fairness. Despite their differences, these models share common features that underpin criminal justice systems globally.

One such feature is the *ex post facto clause*, which ensures that conduct cannot be criminalised after it has occurred. Another is the *limitation on the discretionary powers of the police and prosecution*, requiring them to treat defined crimes uniformly. Additionally, there are limits on state power concerning *individual privacy and security*, such as restrictions on arbitrary detention. Finally, procedural due process ensures that the accused is an active participant in the process, with guilt proven before an independent authority. These elements highlight the adversarial nature of the criminal process, where the prosecution and defense engage in contest contest to determine justice.³ Packer's models, though abstract, provide a foundational understanding of the tensions within criminal justice systems. Subsequent discussions often explore how these models can be balanced or merged to achieve

¹ Roach, K., 1998. Four models of the criminal process. *J. Crim. L. & Criminology*, 89, p.671.

² Sanchez, S. (2019). *I.8. The Crime Control and Due Process Models*. [online] Pressbooks

³ Law Criminal Justice Administration Models of Criminal Procedure. (n.d.). Available at: https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/S000020LA/P000841/M010096/ET/1513752430etext.pdf.

both efficiency and fairness.

Crime Control Model

The Crime Control Model prioritises efficiency and the swift suppression of crime to ensure public safety and social order. Under this model, controlling crime is deemed more critical than safeguarding individual freedoms, reflecting a more conservative perspective. Advocates argue that swift and severe punishment for offenders is necessary to protect society and maintain a sense of security among citizens. The justice process in this model is often likened to an "assembly line": law enforcement apprehends suspects, courts determine guilt, and the correctional system administers appropriate and severe punishments. To maintain efficiency, the Crime Control Model often favours plea bargains over lengthy trials, as trials can slow down the process and hinder the system's ability to deliver quick justice.

The Crime Control Model views the legislature, rather than the courts, as its "*validating authority*." It accepts the extensive reliance on criminal sanctions as a means to protect public order and social stability. Criminal sanctions are seen as essential for safeguarding individuals and their property while promoting societal order. Herbert Packer, who developed this model, assumed that efficient police investigations and prosecutions could effectively control crime, though this perspective has been critiqued for overlooking the fact that many crimes go unreported or unprosecuted.

A key feature of the Crime Control Model is its emphasis on finality and the punishment of offenders. The model has a low tolerance for prolonged adjudicative processes, operating on a "presumption of guilt" (Packer, 1964). This presumption allows the system to function expeditiously, assuming that suspects who have been thoroughly investigated are likely guilty. The model prioritizes speed and efficiency, often relying on informal processes such as police interrogations over formal court proceedings. This approach minimizes opportunities for challenges and ensures that cases move swiftly through the system.⁴

⁴ Sanchez, S. (2019). *I.8. The Crime Control and Due Process Models*. [online] Pressbooks.pub.

In contrast to the Due Process Model, which emphasizes individual rights and procedural fairness, the Crime Control Model prioritizes societal interests in crime reduction. It places greater importance on maintaining public order and prosecuting offenders than on protecting the rights of defendants. This model willingly accepts the risk of convicting innocent individuals if it means punishing the guilty, as it views the control of crime as a higher priority than safeguarding individual liberties. Critics argue that this approach overlooks the root causes of crime, such as social and economic inequalities, and that a focus on prosecution and punishment alone is insufficient to achieve long-term crime reduction.⁵

The Crime Control Model operates on the belief that the repression of criminal conduct is the most critical function of the criminal justice system. Failure to control crime is seen as leading to a breakdown in public order and a loss of freedom for law-abiding citizens. To function effectively, the model must achieve a high rate of apprehension and conviction, despite limited resources. This requires a focus on speed, informality, and finality. Informal processes, such as police interrogations, are preferred over formal court proceedings, as they allow for quicker fact-finding. The model views the criminal process as a screening mechanism, where cases are rapidly filtered through successive stages—pre-arrest, investigation, trial, and disposition—to secure convictions as efficiently as possible.

The "*presumption of guilt*" is a cornerstone of the Crime Control Model, enabling it to handle large volumes of cases efficiently. This presumption is not a legal rule but an operational assumption that the screening processes conducted by police and prosecutors are reliable indicators of probable guilt. By accelerating the rate of conviction, the model aims to maintain domestic tranquillity and general welfare. However, this approach has been criticised for potentially undermining justice by prioritising efficiency over fairness.⁶ The ideological differences between the Crime Control Model and the Due Process Model often align with political perspectives. The Crime Control Model is associated with conservative "tough-on-crime" policies, such as expanding police powers, increasing

⁵ Roach, K., 1998. Four models of the criminal process. *J. Crim. L. & Criminology*, 89, p.671.

⁶ Aryan, A. (2024). *CfP: Young Jurist Journal by Kerala Law Academy Law College [Inaugural Publication]: Submissions on a Rolling Basis!* [online] Lawctopus. Available at: <https://www.lawctopus.com/cfp-young-jurist-journal-kerala-law-academy/>.

prison sentences, and minimising procedural hurdles.⁷ In contrast, the Due Process Model aligns with liberal values, advocating for policies that curb prosecutorial discretion, protect defendants' rights, and emphasise rehabilitation over punishment. It supports procedural safeguards such as the right to remain silent, the right to legal representation, and the exclusion of evidence obtained without a valid warrant.⁸ To illustrate, consider a scenario where a shooter opens fire at a local gym. Under the Crime Control Model, the priority would be swift action to apprehend the suspect and secure evidence. Law enforcement might conduct warrantless searches or use other expedient measures to ensure public safety and deliver quick justice. The model views such actions as necessary to protect the community, even if they risk infringing on individual liberties. The focus would be on securing a conviction and administering severe punishment to deter future crimes. For instance, if the shooter is quickly identified and apprehended, the police might search his home without a warrant to gather evidence, such as firearms or ammunition, that could link him to the crime. Under this model, the urgency of preventing further harm and ensuring public safety would justify bypassing certain procedural safeguards. The case would then move rapidly through the system, with a focus on securing a guilty plea or a swift trial to deliver a harsh punishment.

The model's emphasis on efficiency and finality would prioritise the immediate resolution of the case over prolonged legal challenges or concerns about the suspect's rights. Critics of the Crime Control Model argue that its focus on efficiency and punishment overlooks the root causes of crime, such as poverty, inequality, and lack of access to education and employment. They contend that a punitive approach alone is insufficient to achieve long-term crime reduction and that addressing social and economic issues is essential for creating a safer society. Additionally, the model's reliance on the presumption of guilt raises concerns about the potential for wrongful convictions and the erosion of individual rights.⁹

⁷ Sanchez, S. and McLean, K. (2019). *1.7. The Crime Control and Due Process Models*. [online] Unizin.org. Available at: <https://psu.pb.unizin.org/criminaljusticemclean/chapter/1-8-due-process- and-crime-control-model/> [Accessed 17 Mar. 2025].

⁸ Criminology Fundamentals of Crime, Criminal Law and Criminal Justice Models of Criminal Justice System 2 Quadrant I-Description of the Module. (n.d.).

⁹ Dagar, I. and Mourya, A. (2024). Critical Analysis Of Crime Control Model And Due Process Model: In The Context Of Indian Criminal Justice System. [online] 12, pp.2320–2882.

Due Process Model

The **Due Process Model** prioritises a just and fair criminal justice system that upholds constitutional rights and safeguards individual freedoms. Unlike the Crime Control Model, which operates like an "assembly line," the Due Process Model functions as an "obstacle course," emphasising procedural fairness and the protection of defendants' rights. This model aligns closely with liberal values, placing individual rights and limitations on state power at the forefront of its philosophy.¹⁰

A key tenet of the Due Process Model is its *scepticism* toward the morality and utility of criminal sanctions, particularly in cases involving "victimless crimes" such as drug use, obscenity, or prostitution. These activities, often based on consensual transactions, raise concerns about the intrusive policing required to enforce such laws. The model argues that decriminalising these activities would not only reduce police abuses but also alleviate the burden on the criminal justice system, allowing it to focus on more serious crimes while respecting the rights of the accused. Unlike the Crime Control Model, which prioritises efficiency and guilty pleas, the Due Process Model places its trust in the judiciary, particularly the Supreme Court, to interpret constitutional limitations on state power and ensure fair procedures.¹¹

The central focus of the Due Process Model is to ensure that justice is administered only through a fair and transparent process. It does not favour either the prosecution or the defence but insists on a level playing field by adhering to established rules and procedures. Key principles of this model include the **presumption of innocence**, the right to a **fair trial**, and the requirement that court proceedings be conducted openly and accessible to the public. The model emphasises the defendant's rights to protect against arbitrary or wrongful convictions, even if it means that some guilty individuals may escape punishment. Critics argue that this focus on defendants' rights can make it difficult for prosecutors to secure convictions, potentially undermining public trust in the legal system when guilty individuals go free.¹²

¹⁰ Sanchez, S. (2019). *1.8. The Crime Control and Due Process Models*. [online] Pressbooks.pub.

¹¹ Roach, K., 1998. Four models of the criminal process. *J. Crim. L. & Criminology*, 89, p.671.

¹² Criminology Fundamentals of Crime, Criminal Law and Criminal Justice Models of Criminal Justice System 2 Quadrant I-Description of the Module. (n.d.). Available at:

The Due Process Model is often contrasted with the Crime Control Model, which prioritises public safety and swift punishment. While the Crime Control Model relies on informal fact-finding by law enforcement, the Due Process Model rejects this approach, emphasising the potential for error in such processes. It highlights the fallibility of human observation, the risk of coerced confessions, and the biases of witnesses. Instead, the Due Process Model insists on formal, adversarial proceedings where evidence is publicly evaluated by an impartial tribunal, and the accused has the opportunity to challenge the case against them. This model maintains a low demand for finality, as it prioritises the correction of factual errors over the swift resolution of cases.

The ideological differences between the two models often align with political perspectives.¹³ The Crime Control Model is associated with "tough-on-crime" policies, such as expanding police powers, increasing prison sentences, and making correctional institutions more punitive. In contrast, the Due Process Model advocates for policies that curb prosecutorial discretion, delegate power to first responders like crisis intervention teams, and emphasize rehabilitation over punishment. It also supports procedural safeguards, such as the right to remain silent, the right to legal representation, and the exclusion of evidence obtained without a valid warrant. The due process model promotes policies that delegate power to other first responders (such as crisis intervention teams), curb prosecutorial discretion, and emphasize offender rehabilitation. These rights may include requiring police to inform people under arrest that they do not have to answer questions with an attorney¹⁴ providing all defendants with an attorney¹⁵, or throwing out police evidence seized without a valid warrant.¹⁶

To illustrate the differences, consider a scenario where a shooter opens fire at a local gym. Under the Crime Control Model, the police would prioritize swift action, focusing on apprehending the suspect and securing evidence without undue concern for procedural technicalities. Warrantless searches or other legal shortcuts might be justified to ensure public safety and deliver quick justice. The model views such measures as necessary to protect the community, even if they risk infringing on individual liberties. In contrast, the

https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/S001608/P001744/M027825/ET/1521103923ModelsofCriminalJusticeSystem-Final3.pdf

¹³ Sanchez, S. and McLean, K. (2019). *1.7. The Crime Control and Due Process Models*. [online] Unizin.org. Available at: <https://psu.pb.unizin.org/criminaljusticemclean/chapter/1-8-due-process- and-crime-control-model/> [Accessed 17 Mar. 2025].

¹⁴ *Miranda v. Arizona, 1966*

¹⁵ *Gideon v. Wainwright 1963*

¹⁶ *Mapp v. Ohio, 1961*

Due Process Model would require strict adherence to legal procedures, ensuring that the suspect's rights are protected at every stage. Evidence obtained improperly, such as through a warrantless search, would likely be excluded, even if it means the case against the shooter is weakened.

The Due Process Model's emphasis on fairness and transparency reflects a broader commitment to justice, even at the cost of efficiency. While critics argue that this approach can hinder law enforcement and allow guilty individuals to evade punishment, proponents contend that protecting individual rights is essential to maintaining the integrity of the legal system. The tension between these two models underscores the ongoing challenge of balancing public safety with the protection of constitutional rights in the criminal justice system.

Comparative Analysis of both models

The **Crime Control Model** and the **Due Process Model** represent two competing ideologies within the criminal justice system, each with its own strengths and weaknesses. While certain groups and individuals tend to favor one model over the other, the choice often aligns with political perspectives and societal priorities. The Crime Control Model is frequently associated with conservative policies that emphasize public safety, such as expanding police powers, implementing harsh sentencing laws like "Three Strikes," and prioritizing swift punishment. In contrast, the Due Process Model aligns more closely with liberal values, advocating for policies that protect individual rights, such as requiring police to inform suspects of their rights (*Miranda v. Arizona*), ensuring legal representation for all defendants (*Gideon v. Wainwright*), and opposing practices like private prisons that may infringe on inmates' rights.¹⁷

However, it would be overly simplistic to categorize the Crime Control Model as purely conservative and the Due Process Model as purely liberal. Both models reflect broader societal and political trends, often shaped by public opinion and the prevailing political climate. For instance, when public fear of crime is high—as Gallup polls have frequently indicated—politicians are more likely to advocate for tough-on-crime policies that align with the Crime Control Model. Conversely, when concerns about police overreach and

¹⁷ Richard Frase, *Defining the Limits of Crime Control and Due Process*, 73 CAL. L. REV. 212 (1985), available at https://scholarship.law.umn.edu/faculty_articles/455.

abuse of power dominate public discourse, policymakers may push for reforms that limit law enforcement authority, such as requiring warrants for searches or increasing accountability, reflecting the principles of the Due Process Model.¹⁸

The tension between these models highlights the ongoing struggle to balance efficiency and fairness in the criminal justice system. The Crime Control Model prioritizes speed and finality, operating on a presumption of guilt to ensure swift punishment and deterrence. While this approach can enhance public safety, it risks undermining individual rights and increasing the likelihood of wrongful convictions. On the other hand, the Due Process Model emphasizes procedural safeguards, fairness, and the presumption of innocence, ensuring that justice is administered equitably. However, its focus on protecting defendants' rights can sometimes hinder law enforcement efforts and delay the resolution of cases. Let us understand it further using a Table.

Aspect	Crime Control Model	Due Process Model
Primary Goal	Suppress and control crime to ensure public safety and order.	Ensure a fair and just system that protects individual rights and constitutional safeguards.
Philosophy	Efficiency and swift punishment; prioritizes societal interests over individual rights.	Fairness and procedural justice; prioritizes individual rights over societal interests.
Metaphor	Operates like an "assembly line" for quick processing of cases.	Functions as an "obstacle course" with multiple checks and balances.
Presumption	Presumption of guilt; suspects are likely guilty after investigation.	Presumption of innocence; suspects are innocent until proven guilty.

¹⁸ Richardson, L. Song. "Due Process for the Global Crime Age: A Proposal." Cornell International Law Journal 41, no. 2 (2008): 347-382.

Focus	Speed, efficiency, and finality in resolving cases.	Fairness, transparency, and adherence to legal procedures.
Role of Police	Broad powers to investigate, apprehend, and gather evidence quickly.	Limited powers; must follow strict procedural rules to protect suspects' rights.
Role of Courts	Minimal interference; courts act as a rubber stamp for prosecutions.	Active oversight; courts ensure legal procedures are followed and rights are protected.
Plea Bargains	Encouraged to save time and resources; prioritizes quick resolutions.	Discouraged; emphasizes thorough trials to ensure justice.
Evidence Handling	Evidence obtained informally (e.g., warrantless searches) is often admissible.	Evidence obtained improperly (e.g., without a warrant) is excluded to protect rights.
Risk of Wrongful Convictions	Accepts the risk of convicting innocent individuals to punish the guilty.	Prioritizes preventing wrongful convictions, even if some guilty individuals go free.
Political Alignment	Often associated with conservative "tough-on-crime" policies.	Often associated with liberal policies that emphasize individual rights and fairness.
Example Policies	Expanding police powers, harsh sentencing laws (e.g., "Three	Miranda rights, right to legal representation, exclusion of

	Strikes").	illegally obtained evidence.
Public Perception	Appeals to those prioritizing public safety and fear of crime.	Appeals to those concerned about police overreach and protecting civil liberties.
Criticism	May lead to abuses of power, wrongful convictions, and neglect of root causes of crime.	May hinder law enforcement efficiency and allow guilty individuals to evade punishment.

Model of Criminal Justice System in India

The Indian criminal justice system is a complex framework that often finds itself at the crossroads of two competing ideologies: the Crime Control Model and the Due Process Model. These models, while distinct in their priorities, frequently intersect and clash, creating a dynamic tension that shapes legislative practices, judicial outcomes, and societal perceptions of justice. The challenge of balancing public safety with the protection of individual rights remains a central concern for policymakers, law enforcement agencies, and the judiciary. This analysis critically examines the strengths and weaknesses of both models within the Indian context, exploring how they influence the administration of justice and contribute to the evolving legal landscape.

India's criminal justice system initially leaned heavily toward the Crime Control Model, which prioritizes efficiency, public safety, and swift punishment. This inclination was evident during the drafting of the Constitution, when the Constituent Assembly rejected the inclusion of the Due Process Clause. The early judicial approach further reflected this preference, as seen in the landmark case of *A.K. Gopalan v. State of Madras*¹⁹. In this case, the Supreme Court emphasized the necessity of state power to protect society from wrongdoers, asserting that liberty and property could only be safeguarded if the state had the authority to arrest, search, imprison, and punish those who violated the law. This ruling underscored the dominance of the Crime Control Model in India's formative legal

¹⁹ AIR 1950 SC 27, 1950 SCR 88.

framework.

However, the post-Maneka Gandhi era marked a significant shift in India's judicial approach, with the judiciary adopting a more liberal and rights-oriented perspective. The Supreme Court expanded the scope of fundamental rights, recognizing the right to free legal aid, the right to a speedy trial, and the right to dignified treatment. Justice

P.N. Bhagwati observed that the judiciary, through progressive interpretation, had significantly enlarged the rights of suspects and accused individuals. This shift reflected the ascendancy of due process values in India's criminal justice system, emphasizing fairness, transparency, and the protection of constitutional rights.

The tension between the two models is evident in various judicial decisions. For instance, in *Kapil Kumar Beri v. State*²⁰, the High Court acquitted the appellant after 10 years of conviction, citing the prosecution's failure to prove guilt beyond a reasonable doubt. This decision exemplified the Due Process Model's emphasis on fairness and procedural safeguards. However, the initial conviction by the District Court, despite insufficient evidence, highlighted the lingering influence of the Crime Control Model. Similarly, in *Mukesh & Anr v. State for NCT Delhi & Ors*²¹. (the Nirbhaya case), the judiciary adhered to due process principles by punishing the juvenile offender according to the law rather than succumbing to societal pressure for harsher penalties. This case demonstrated the judiciary's commitment to upholding individual rights, even in the face of public outrage. Nevertheless, the prevalence of undertrial prisoners—68.2% according to the National Crime Records Bureau (NCRB)—indicates that the Crime Control Model continues to influence India's criminal justice system. The high percentage of undertrials reflects a system that prioritizes detention and control over procedural fairness.

Legislative amendments also reflect the interplay between the two models. For example, the Unlawful Activities (Prevention) Act (UAPA), 1967, embodies the Crime Control Model by granting the government extensive powers to designate individuals and organizations as terrorists. The 2019 amendment, which allowed the government to label individuals as terrorists, has been criticized for violating due process rights, including the right to dissent and the right to reputation. Critics argue that such provisions grant arbitrary

²⁰ 2019 SCC OnLine Del 8226.

²¹ (2017) 6 SCC 1.

powers to the executive, undermining constitutional safeguards. In contrast, judicial decisions like *Anokhilal v. State of Madhya Pradesh*²² highlight the judiciary's commitment to due process. In this case, the Supreme Court overturned a conviction and death sentence because the accused's right to legal aid was violated. The court emphasized that adequate time and resources must be provided to ensure a fair trial, reaffirming the principles of the Due Process Model.

Similarly, in *Harsh Mander & Anr v. Union of India*²³, the Delhi High Court decriminalized begging, recognizing poverty as a human rights issue. The court observed that criminalizing beggars without addressing the root causes of poverty—such as lack of education, social protection, and discrimination—violates their fundamental rights. This judgment underscored the judiciary's alignment with due process values. The Supreme Court's decision in *Arup Bhuyan v. State of Assam*²⁴ further illustrates the Due Process Model's influence. The court ruled that mere membership in a banned organization does not constitute a crime unless the individual engages in or incites violence. This interpretation of the Terrorist and Disruptive Activities (Prevention) Act (TADA) aligned with constitutional protections under Articles 19 and 21, emphasizing the importance of individual rights over broad state powers.

The judiciary's approach to the Narcotic Drugs and Psychotropic Substances (NDPS) Act and the Information Technology (IT) Act also reflects a commitment to due process. The Supreme Court struck down Section 66A of the IT Act, which criminalized online speech, for being vague and violating freedom of expression. This decision demonstrated the judiciary's role in safeguarding constitutional rights against overreach by the legislature. Similarly, in *Nambi Narayanan v. State of Kerala*²⁵, the Supreme Court compensated the victim of a miscarriage of justice, highlighting the importance of due process and the presumption of innocence.

Despite these advancements, the Crime Control Model remains influential, particularly in cases involving national security and public order. The UAPA amendments and the high number of undertrial prisoners reflect a system that prioritizes control and deterrence over

²² (2020) 13 SCC 695.

²³ 2019 SCC OnLine SC 34.

²⁴ (2011) 3 SCC 377.

²⁵ (2018) 10 SCC 804.

individual rights. However, the judiciary's progressive interpretations and landmark judgments have increasingly emphasized due process, ensuring that constitutional safeguards are not overshadowed by the need for public safety.²⁶

India's criminal justice system reflects a complex interplay between the Crime Control Model and the Due Process Model. While the former emphasizes efficiency, public safety, and deterrence, the latter prioritizes fairness, transparency, and the protection of individual rights. The tension between these models is evident in legislative amendments, judicial decisions, and societal perceptions of justice. As India continues to evolve, striking a balance between these competing priorities remains a critical challenge for policymakers, law enforcement agencies, and the judiciary.²⁷

Analysis of Prominent Countries

United States of America

Criminologists argue whether the U.S. justice system operates from a model of due process or crime control. As American citizens, the Constitution ensures that we have due process rights when faced with a criminal trial, including but not limited to protection from unreasonable search and seizure; a fair and speedy trial before a jury of our peers; and protection from self-incrimination. In contrast, crime control efforts often supersede these due process rights through plea-bargaining, in addition to other practices.²⁸ The criminal justice system in the United States operates as a blend of the Crime Control Model and the Due Process Model, with the balance between the two often shifting based on societal needs, political climate, and public opinion. While both models influence the system, their application varies across different states, jurisdictions, and levels of government.

The Crime Control Model is prominently reflected in policies and practices that prioritize public safety, swift justice, and the suppression of criminal activity. This model is evident

²⁶ Dagar, I. and Mourya, A. (2024). Critical Analysis Of Crime Control Model And Due Process Model: In The Context Of Indian Criminal Justice System. [online] 12, pp.2320–2882.

²⁷ Menon, A. (2021). *Jurisprudential Development of Indian Criminal Procedure Through the Prism of Packer's Models - Libertatem Magazine*. [online] Libertatem Magazine.

²⁸ Law Criminal Justice Administration Models of Criminal Procedure. (n.d.). Available at: https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/S000020LA/P000841/M010096/ET/1513752430etext.pdf.

in "tough-on-crime" measures such as mandatory minimum sentences, the "Three Strikes" law, and the expansion of police powers. For instance, the War on Drugs and the use of plea bargains to expedite case resolutions are hallmarks of this approach. The model operates on the presumption of guilt, allowing law enforcement and prosecutors to act quickly to apprehend suspects and secure convictions. It emphasizes efficiency and deterrence, often at the expense of individual rights, particularly in cases involving serious crimes or national security.

On the other hand, the Due Process Model is deeply embedded in the constitutional framework of the U.S. legal system. It ensures that the rights of the accused are protected at every stage of the criminal process. Landmark Supreme Court rulings, such as *Miranda v. Arizona*²⁹ (which established the Miranda rights) and *Gideon v. Wainwright*³⁰ (which guaranteed the right to legal counsel), underscore the importance of due process. This model requires the prosecution to prove guilt beyond a reasonable doubt in a fair and public trial, emphasizing transparency, accountability, and the presumption of innocence. It also mandates the exclusion of evidence obtained through unlawful means, such as warrantless searches or coerced confessions.

In practice, the U.S. criminal justice system often leans toward the Crime Control Model in response to rising crime rates or public demand for stricter law enforcement. However, the Due Process Model serves as a critical counterbalance, ensuring that constitutional rights are not overlooked in the pursuit of justice. For example, while policies like the Patriot Act expanded law enforcement powers in the name of national security, judicial oversight and rulings like *Riley v. California* (which limited warrantless cell phone searches) reaffirmed the importance of due process.

Ultimately, the U.S. criminal justice system reflects a dynamic interplay between these two models. While the Crime Control Model dominates in areas requiring swift action and public safety, the Due Process Model ensures that individual rights and procedural fairness remain central to the administration of justice. This balance, though often contentious, is a defining feature of the American legal system.

²⁹ 384 U.S. 436 (1966).

³⁰ 372 U.S. 335 (1963).

United Kingdom

The criminal justice system in England and Wales reflects a blend of the Crime Control Model and the Due Process Model, as conceptualized by Herbert Packer. While the system incorporates elements of both models, its policies and practices often oscillate between prioritizing public safety and safeguarding individual rights, depending on societal needs and political influences. The Crime Control Model is evident in the powers granted to law enforcement, particularly through the Police and Criminal Evidence Act (1984). This legislation allows police to stop and search individuals suspected of carrying illegal drugs, weapons, stolen property, or items used to commit crimes. While officers generally require reasonable grounds for such actions, they can act without grounds in specific circumstances, such as preventing serious crime or addressing threats in high-risk areas. Critics argue that these powers, which lean toward the Crime Control Model, risk being abused, particularly as statistics show that individuals from ethnic minorities are disproportionately targeted. Despite these concerns, such measures are often justified as necessary for maintaining public order and deterring crime.

In contrast, the Due Process Model is deeply embedded in the UK's legal framework, particularly through the Human Rights Act (1998). This legislation ensures that every individual has the right to a fair trial, legal representation, and the presumption of innocence until proven guilty. Legal counsel is provided free of charge to those who cannot afford it, and bail is granted under reasonable conditions. These safeguards align with the Due Process Model's emphasis on protecting individual rights and ensuring procedural fairness. For example, the requirement for an independent magistrate to issue warrants and oversee arrests prevents arbitrary detention, reinforcing the principles of due process.³¹

The tension between these models is also evident in the treatment of guilty pleas and appeals. Under the Crime Control Model, guilty pleas are encouraged, as they expedite the judicial process and reduce the need for lengthy trials. Leniency is often shown to those who plead guilty, while harsher sentences are imposed on those who contest their charges and are found guilty after trial. Bail is frequently denied under this model, as suspects are

³¹ PETER DUFF, CRIME CONTROL, DUE PROCESS AND 'THE CASE FOR THE PROSECUTION': A Problem of Terminology?, *The British Journal of Criminology*, Volume 38, Issue 4, Autumn 1998, Pages 611–615, <https://doi.org/10.1093/bjc/38.4.611>

presumed untrustworthy and likely to reoffend. Conversely, the Due Process Model ensures that defendants retain their rights throughout the process, including access to legal counsel and the opportunity to appeal convictions. In England and Wales, individuals have 28 days to appeal a conviction or sentence, with the state covering costs if the appeal is successful. This reflects the Due Process Model's commitment to correcting judicial errors and upholding justice.

The UK's criminal justice system also demonstrates a balance between these models in its approach to policing and trials. While policing policies, such as stop-and-search powers, align more closely with the Crime Control Model, trial procedures and detention policies adhere to the Due Process Model. For instance, the presumption of innocence and the right to a fair trial are central to the UK's legal system, ensuring that individuals are not unjustly convicted. However, the system also incorporates elements of the Crime Control Model, such as discouraging appeals by imposing longer sentences and court costs on unsuccessful appellants.

Public opinion and crime trends further influence the balance between these models. Surveys indicate that many support increased police powers, reflecting a preference for the Crime Control Model. However, statistics show that while overall crime rates are declining, violent crimes involving knives and sharp weapons are rising. This trend could push the system further toward the Crime Control Model, emphasizing stricter law enforcement and harsher penalties.

The criminal justice system in England and Wales incorporates aspects of both the Crime Control Model and the Due Process Model. While policing and arrest policies often align with the former, trial procedures and detention safeguards reflect the latter. This balance ensures that the system addresses crime effectively while protecting individual rights. However, the ongoing tension between these models highlights the challenges of achieving justice in a society that values both public safety and procedural fairness. As crime trends and public opinion evolve, the UK's criminal justice system will continue to navigate this delicate balance.³²

³² Business (2025). *Crime Control and Due Process Models in England and Wales' Criminal Justice Systems* | UKEssays.com. [online] UKEssays.com.

France

The criminal justice system in France operates primarily under the inquisitorial model, emphasizing due process and judicial oversight to ensure that the accused receives a fair trial. The French system places significant importance on the protection of individual rights, reflecting characteristics of the Due Process Model of criminal justice. At the heart of the French system is the investigating magistrate (juge d'instruction), who is responsible for conducting a thorough and impartial investigation before deciding whether to refer the case to trial. This approach minimizes the risk of wrongful convictions by ensuring that sufficient evidence is gathered before proceeding.

The investigation phase in France is meticulous and focused on gathering evidence from all sides, including information that may exonerate the accused. The accused is granted the right to counsel at all stages of the proceedings, ensuring that legal representation safeguards their interests. The principle of presumption of innocence is deeply embedded in French law, and the burden of proof rests with the prosecution. The accused also enjoys the right to remain silent and the right against self-incrimination, which strengthens procedural safeguards.

French criminal trials are typically conducted by professional judges who evaluate evidence and determine guilt or innocence. However, for serious criminal offences, cases are tried before a Cour d'assises, where a panel of judges and a jury collectively decide the outcome. The appellate system in France is well-developed, allowing for a review of decisions to ensure that justice is served. Furthermore, the exclusion of evidence obtained through unlawful means reinforces the due process orientation of the system.

France is also a signatory to the European Convention on Human Rights (ECHR), which imposes obligations to uphold fundamental rights and freedoms, including protection against arbitrary detention and torture. This further strengthens the procedural guarantees available to accused persons. While efficiency and public safety remain important goals, the French system prioritises fairness and justice, ensuring that individual liberties are not sacrificed for the sake of expediency.

Despite its strengths, the French system is not without challenges. The duration of investigations, particularly in complex cases, can be lengthy, causing delays in justice.

There are also concerns about overcrowded prisons and the treatment of detainees, which have attracted criticism from human rights organizations. Nevertheless, the French criminal justice system remains heavily aligned with the Due Process Model, ensuring that procedural fairness and judicial oversight are paramount in the pursuit of justice.

Russia

The criminal justice system in Russia, in contrast, operates with a model that predominantly reflects the Crime Control Model, emphasizing efficiency, swift punishment, and state authority. While Russia's legal framework includes constitutional guarantees of due process and individual rights, in practice, the system tends to prioritize the interests of the state and public security over procedural fairness. The Russian system is heavily influenced by its Soviet-era roots, where state control and maintaining order were prioritized over individual freedoms.

The investigative phase is a key component of the Russian criminal justice system, often conducted by the Investigative Committee of Russia (SKR), which has extensive powers to gather evidence and build cases. While the law mandates an impartial investigation, critics argue that investigative authorities focus primarily on securing convictions rather than ensuring a balanced inquiry. This focus on obtaining confessions and rapid case resolution aligns with the principles of the Crime Control Model, where the priority is to suppress crime effectively.

Pre-trial detention is widely used in Russia, often for prolonged periods, even in cases where the accused poses no threat to public safety. This undermines the principle of presumption of innocence and places considerable pressure on defendants to cooperate with investigators. Defense attorneys, although theoretically able to challenge evidence and procedural violations, often face an uphill battle in a system where prosecutors enjoy significant advantages. Trials in Russia, although formally adversarial, often exhibit a bias toward the prosecution, with conviction rates exceeding 99%, suggesting a system more concerned with securing convictions than ensuring a fair trial.

Judges in Russia play an active role in trials, similar to an inquisitorial system, but they often align with the prosecution's perspective, resulting in limited impartiality. Confessions obtained under questionable circumstances are sometimes admitted as

evidence, raising concerns about coerced confessions and violations of human rights. Although Russia has signed and ratified the European Convention on Human Rights (ECHR), its compliance with international human rights standards remains inconsistent. Legal reforms have been introduced in Russia to enhance procedural safeguards and reduce wrongful convictions, but their impact has been limited in practice. Efforts to strengthen the independence of the judiciary have faced challenges due to political interference and institutional pressures. Moreover, public perception of the system reflects skepticism, with many viewing the criminal justice process as being biased in favor of state authorities.

In essence, Russia's criminal justice system reflects a strong inclination toward the Crime Control Model, where the focus is on deterring crime, maintaining social order, and achieving swift convictions, often at the cost of procedural safeguards and individual liberties. While efforts to incorporate elements of the Due Process Model have been made, the system continues to emphasize control and state authority over the protection of individual rights.

Challenges and Suggestions

Balancing the Due Process and Crime Control models presents ongoing challenges in any criminal justice system. Some key challenges include:

- **Resource Allocation:** Prioritizing Due Process can be resource-intensive due to the need for extensive investigations, legal representation, and court proceedings. Crime Control models may be favored due to perceived efficiency and cost-effectiveness, even if individual rights are compromised.
- **Public Perception:** Public opinion often leans towards Crime Control, especially in times of heightened fear of crime. This can pressure policymakers to implement measures that prioritize quick convictions and harsher punishments, potentially at the expense of Due Process.
- **Bias and Discrimination:** Both models can be susceptible to bias. Crime Control measures may disproportionately target marginalized communities, while Due Process protections may be less accessible to those lacking resources or legal

knowledge.

- **Technological Advancements:** The increasing use of technology in law enforcement (e.g., surveillance, data analysis) raises concerns about privacy and potential abuses of power. Balancing technological efficiency with Due Process safeguards is crucial.

Suggestions for improvement:

- **Strengthening Legal Aid:** Ensuring access to quality legal representation for all defendants, regardless of their financial status, is essential for upholding Due Process.
- **Promoting Transparency and Accountability:** Implementing mechanisms for oversight and accountability of law enforcement agencies can help prevent abuses of power and ensure adherence to Due Process standards.
- **Public Education:** Educating the public about the importance of Due Process and the potential consequences of prioritizing Crime Control at all costs can help foster a more balanced approach to criminal justice.
- **Judicial Independence:** Maintaining an independent judiciary that can impartially apply the law and protect individual rights is crucial for upholding both models.
- **Regular Review and Reform:** Criminal justice systems should be regularly reviewed and reformed to address emerging challenges, incorporate best practices, and ensure a fair balance between Crime Control and Due Process.

Micheal King provides 6 other models out of which the below 2 is significant to be addressed in modern criminal justice systems:

Medical Model

The medical model of criminal justice is based on the premise that on certain occasions, it would be unfair to solely blame the offender for the crime committed by him. It is built on the proposition the criminality of an individual may arise out of individual

characteristics or social circumstances which are beyond his or her control. It assumes that at times factors in the personal life of an individual may contribute towards his criminal conduct.

Thus, this model is based on responding to such circumstances which have contributed to the criminal conduct of the individual so that the removal or mitigation of such circumstances will also have a corresponding effect on his criminality. This model is built on the understanding that punishing an offender is not of any use unless the issues which have promoted the criminal conduct in him are addressed.

Bureaucratic Model

This model conceptualises the criminal justice system as an administrative machinery which needs to be managed efficiently. With 'management of crimes and criminals' as its primary intended function, this model insists on adherence to the established rules and procedures by the officials in order to ensure that the process of trial and sentencing of the defendants is managed speedily and efficiently. This model takes serious account of the cost effectiveness of the criminal justice administration and is built on the premise that undue delay escalates the cost of each case. Thus, it prioritises minimisation of expenditure and an economic division of labour as some of its distinguishing features. This model also takes serious note of a higher rate of acquittal as it represents a failure of the criminal justice system to fulfil its basic objective. A higher rate of acquittal hints at inefficient identification of suspects and also inefficient handling of the prosecution.

Conclusion

The models of Criminal Procedure represents a convenient way to understand and analyse the values underlying the way procedural rules are framed and the decision made by different actors based on such rules or discretion. The model enunciated by Prof. Herbert Packer is widely accepted. They are the Crime Control Model and the Due Process Model. As Packer himself says these are not working models or models that exist in real world. These are polarities of the values represented, a combination of which may exist in the real world. In other words, a system may tilt towards either model. There are some common features they share like the principle of ex post facto laws, limits on the discretionary powers of the police, procedural due process etc. To talk about the

differences, the Crime control model considers repression of crime as the most important function whereas due process model considers criminal procedure as a guarantor of human freedom. Efficiency under the Crime control model is manifested by high rates of conviction which is created by a system of informal fact finding and minimal avenues for challenge. Under the due process model it is more important to make sure that the individual is treated fairly and the possibility of error is ruled out to the maximum extent possible.

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