

LS 101 — Chapter 4: Due Process and Crime Control Models of the Criminal Process

1 Crime Control Model

- This model argues that crime and social disorder as a major threat to our freedom.
- Repressing crime is the most important function of the criminal process.
- Maintaining social order is an important part of governance.
- Society willingly gives up some freedom for order.
- Some people will see that this is worth it; ends justify the means.
- The police play an important role and are the good people.
- The police operate on a presumption of guilt.
- Laws are meant to be flexible to enable the police to apprehend criminals.
- The model emphasizes the ends over the means.
- Also sides with the victims — allows the victims to get their day in court and go after the offender.
- Often faster.
- Criticism is that it allows the police to abuse the law.
- An example of this being used in Canada was the Quebec Crisis when the War Measures Act was invoked.
- An example of a society that follows this model is China.
 - China is regarded as an authoritarian country with few political freedoms.
 - Shousen laws allow the police to detain Chinese citizens without charge.
 - Social order is maintained through coercion.
 - Yet, one could argue that these administrative detentions do help maintain social order.
 - However, critics point out that the cost is too high for what it does when it comes to civil liberties.

2 The Due Process Model

- This is a model that assumes that the greatest threat to our liberty is from the state.
- Almost the opposite of the crime control model — this is suspicious of authority, and aims to prevent the misuse of power by officials.
- “Better many guilty people go free than an innocent be convicted.”
- Powers given to law enforcement must be limited/scrutinized.
- Time-consuming to maintain this standard.
- Focusing on the means rather than the ends.
- Convicting criminals is not important without the rights.
- The courts/judiciary have the power, including power to control the police.
- Evidence that violates the law is thrown out.

3 Summary

- Both models have their benefits and deficiencies.
- Society must find a balance between maintaining social orders and protecting individual rights and civil liberties.