Section:3

Criminal justice system

Criminal justice system

- Defining criminal justice system
- Components of criminal justice s system
  - **Law enforcement**
  - **Prosecution**
  - **Defense**
  - **Criminal court**
  - **Correctional administration**

What is criminal justice system?

- Justice as a concept is fundamental to ethical theory and political philosophy, justice is associated with the notion of **equity** (or impartiality) and **equality** ,especially with the injunction to treat equals equally.

- From Aristotle ((-.384-322 BE), it is conventional to distinguish between:(1) **distributive justice**, which is **concerned with questions of who should get what**, and (2) **corrective** (or commutative) justice, which is concerned with the **treatment of individuals in social transactions** (especially punishing an individual for an offence).

What is criminal justice system?

- For Immanuel Kant, it is a virtue whereby we ***respect others' freedom, autonomy, and dignity by not interfering with their voluntary actions, so long as those do not violate others' rights***;
- **Aristotle** says: justice consists in what is **lawful and fair**, with fairness involving equitable distributions and the correction of what is inequitable.
- *So from the above conceptions* ***Justice- implies the fair, objective, morally right, legally valid, equitable administration of legal norms.***

What is criminal justice system?

- The ancient principle of('**an eye for an eye')** expressed a basic notion of justice, but most contemporary legal systems prefer to support some notion of **correction** and **rehabilitation**.

- While justice may be difficult to define and achieve, few governments have ever entirely abandoned the appeal of justice (especially as **fairness**), since justice is an essential feature of legitimacy, See: *Citizenship; Relative Deprivation.* Bibl. Runciman (1966)

What is criminal justice system

- So, criminal justice system is the **set of agencies and processes established by governments to control crime** and impose penalties on those who violate laws .
- *It is a set of legal and social institutions for enforcing the **criminal** law in accordance with a defined set of procedural rules and limitations.*
- **Criminal Justice** refers to the agencies of government charged with enforcing law, adjudicating **crime**, and correcting **criminal** conduct. ... It is the job of the agencies of **justice** to prevent these behaviours by detaining and punishing lawbreakers or deterring their future occurrence.

What is criminal justice system

- **Thus, the Purpose of criminal justice**

1. to deliver justice for all, by convicting and punishing the guilty and helping them to stop offending, while protecting the innocent.
2. It is responsible for detecting crime and bringing it to justice; and carrying out the orders of court, such as collecting fines, and supervising community and custodial punishment. . . .
3. The key goals for the Criminal Justice System are to help reduce crime by bringing more offences to justice,
4. to raise public confidence that the system is fair and will deliver for the law-abiding citizens.

What is criminal justice system

- While governments tend to suggest that the above goals are all equally achievable, the reality is that choices have to be made over which are to be prioritized.

- convict the guilty versus protecting the innocent from wrongful conviction;
- ensuring just processes versus achieving just outcomes;
- protecting the rights of defendants versus meeting the needs of victims
- enforcing the law versus maintaining order

Social control vs. criminal justice *system*

- In any society, there are varieties of response to crime.
- For instance, when a child commits a criminal act, even if that act doesn’t come to the attention of police, parents or school authorities nevertheless may punish the child for the offence if they found out it.
- Attempts to prevent crime by installing burglar alarms in automobiles and homes are other ways of responding to crime.
- Like the family, organized religion and education, criminal justice is an institution of social control.

Social control vs. criminal justice *system*

- As an institution of social control, criminal justice differs from others ‘social control mechanisms’ in two ways.
- **First the role of criminal justice is restricted to those social values, whose violation constitutes crime**.
- **Second**, **criminal justice is the society’s “last line of defense” against people who refuse to abide by dominant social values and commits crimes.**
- Usually society turns to criminal justice after other institutions of social control have failed.

Components of the criminal justice system

- Most criminal justice systems have five components which usually includes:
  1. **Law enforcement agencies**
  2. **Prosecution**
  3. **Defense attorneys**
  4. **Criminal courts**
  5. **Corrections**

Each parts plays a key role in the criminal justice process.

Components of the criminal justice

1. **Law enforcement agencies:** may include police, investigators ……..

The key role is :

- ❖ take reports for crimes that happen in their areas.
- ❖ investigate crimes and gather and protect evidence.
- ❖ may arrest offenders
- ❖ give testimony during the court process,
- ❖ conduct follow-up investigations if needed.

Historically and in the contemporary context, the image of public police has been mainly one of crime-fighter. On this view, the primary police roles involve:

- **the prevention of crime**
- **the detection of criminals**
- **the preservation of order.**

Components of the criminal justice

2. Prosecution:

- Prosecutors are lawyers who represent the state or federal government (not the victim) throughout the court process-from the first appearance of the accused in court until the accused is acquitted or sentenced.
- Prosecutors review the evidence brought to them by law enforcement to decide whether to file charges or drop the case. Prosecutors present evidence in court, question witnesses, and decide (at any point after charges have been filed) whether to negotiate plea bargains with defendants.
- They have great discretion, or freedom, to make choices about how to prosecute the case.

Components of the criminal justice

- In modernized societies, in most cases, crime is considered as a public offense and not a private affair of the injured party. This means that every time a crime is committed against an individual, the whole community is assumed to have been injured.
- Therefore, the attorney general or the prosecutor general is a public official **who represents the government and presents, to the court, the case against the defendant**.
- The office of public prosecutor is given broad powers pertaining to the **administration of justice**. It is the prosecutor who can decide whether or not to prosecute a particular criminal case. He has a lot of discretionary power.

Components of the criminal justice

3. Defense Attorneys: Defense attorneys defend the accused against the government's case.

- They are either hired by the defendant or (for defendants who cannot afford an attorney) they are assigned by the court. While the prosecutor represents the state, the defense attorney represents the defendant

Components of the criminal justice

4. Court

- In the ***norm enforcement functions,*** the courts are intermediary between law enforcement and corrections in making two crucial decisions in the criminal justice process.

a. Is the person guilty of a crime?

b. What should be done with the convicted offender?

- In such decision making the courts are charged with the responsibility of convicting the guilty while protecting the innocent under safeguards of the Constitution, legislative statutes, and procedural rules. The courts, however, do more than enforce the legal norms embodied in penal codes.

Components of the criminal justice

- The courts, however, do more than enforce the legal norms embodied in penal codes.

In their ***policy making functions:***

- they create new norms through interpretation of Constitutions
- Fleshing out ambiguous declaration,
- Reviewing actions of the executive branch of government.

5. Correctional administration

- The correctional component of the criminal justice system concerns itself with supervising convicted criminals in jail, prison or while on probation.
- **Jail-** holds individual who are convicted and those not convicted
- **Prison-** holds individual who are convicted sentenced as guilty
- **Probation-** is sentence that suspends or delays a term of full-time prison by sending the offender to his community within certain preconditions and rules. Failure to abide by these precondition means returning to prison.

5. Correctional administration……

- But correction has more conception than mere punishment. It has a wide range of activities such as:

a. Punishment

b. Incarceration of criminals/offenders

c. Providing rehabilitation programs for offenders

d. Assisting ex-offenders by securing employment, education……..

e. Assisting victims(Snarr, 1992:43 cited on Andargachew, 2004:158).

5. Correctional administration……

- The key elements of the definition are “**punish**, **protect**, **rehabilitate** and **compensate**”. These activities cover the whole range of programs in correctional administration

5. Correctional administration……

Theological/moralistic theories- encouraged punishment as retribution for evil.

Classical thinking-equated punishment with crime

Neo-classical thought-punishments must vary with some conditions such as age, intellectual capacity. Etc, motives of offenders and the offender's past record and some chances of rehabilitation.

Positivistic thought- The contemporary scientific attitude is that criminals are individual personalities and that their rehabilitation can be brought about only through individual treatment.

5. Correctional administration……

- Societies generally follow two objectives: punishment and rehabilitation. However, objectives shift from time to time depending on public opinion and the type of political leadership. In modern times generally rehabilitation seems to gain more attention, though this varies from country to country.

- Gradually societies resorted to treatment. But the conflict between the punitive and treatment reactions of society, as pointed out by Edwin Sutherland, continued to be unabated.

5. Correctional administration……

- There are those who argue that, despite the shift to the treatment approach, crime is on the increase. Actually since there is no evidence to support this view, one can as well argue that crime rates are high because of the survival of the punitive reaction.

- Though the arguments against the treatment approach are mere reactions to perpetuate the justifications of punishment prior to the emergence of the treatment, in present day societies both the punitive reactions and treatment reactions are used side by side. Therefore, correctional procedures and programs are neither exclusively punitive nor exclusively treatment. But variations exist from society to society (Sutherland, 1960: 314-17).

5. Correctional administration……

- But, from the legal point of view, there are different objectives of punishment. These include:

1. **revenge or retribution,**
2. **deterrence (specific and general)**
3. **rehabilitation or reformation**.

Each of these shall be briefly explained below.

5. Correctional administration……

- ***Revenge or retribution:*** is one of the oldest justifications for punishment. This objective of punishment is on the basis of the early codes such as the *Code of Hammurabi*, which pronounced the doctrine of *“an eye for an eye and a tooth for a tooth”*. The assumption of this objective of punishment is that since the victim has suffered, so must the offender.
- **Deterrence:** is defined as “A justification for punishment based on the idea that crime can be discouraged or prevented by instilling in potential criminals a fear of punishment consequences.

- ***Rehabilitation:*** the philosophy behind rehabilitation rests on the assumption that “persons who commit crimes have identifiable reasons for doing so, and that these can be discovered, addressed and altered”. Rehabilitation suggests to the offender that crime does not pay and that there is better way. The aim of rehabilitation is to modify the conduct of the individual and reintegrate him/her into the society as a productive member.

5. Correctional administration……

- **An Integrative View**
- We have discussed above various philosophies regarding the purpose of punishment. However, while each one of them has some value of its own none of them is universally acceptable alone.

- If correction alone is emphasized, the retributive and deterrent elements become ineffective. In official circles, deterrence is strongly supported as a necessary and potent defense of social values.

- Pure retributionist view makes punishment barbaric and leaves little room for reformation. On the other hand, such treatment is likely to make these criminals feel bitter and turn to habitual criminality.

- It is now recognized that ‘the prevention of crime and protection of society are ends asserted by everyone. Thus, an inclusive theory which is a cultivation of all the elements of retribution, deterrence, prevention and reformation has been gaining ground in recent years.