

## Overview of Crime and Criminal Justice in Canada – Key Notes

### What counts as a crime?

- **Legal definition** – behaviour that is prohibited and punishable under the Criminal Code.
- **Social definition** – acts that violate social norms; these norms change over time and across cultures.
- **Social-constructionist definition** – behaviours become criminal only when defined as such by those in power, reflecting social values and politics.

### Normative frameworks and the adversarial system

- Justice in Canada follows the **adversarial system**: two opposing parties (the Crown and the defence) present arguments to a neutral judge. Each side seeks a “win,” but the prosecutor is also responsible for ensuring justice and avoiding wrongful convictions.
- This system aims to uncover the truth through procedures like disclosure and cross-examination. However, it can prioritize efficiency over fairness, lead to lengthy trials and encourage plea bargains.

### Fairness, equality and the rule of law

- Two perspectives on justice: **substantive justice** focuses on the accuracy of outcomes (did the right person get punished?) while **procedural justice** emphasises fairness of the process. A just trial requires both.
- **Rule of law** means everyone is subject to public, clear and evenly applied laws. Equality under the law requires that no one is above legal accountability.
- **Section 15 of the Canadian Charter** codifies this, stating that *“every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination”* [justice.gc.ca](#). This prohibits discrimination based on race, national or ethnic origin, colour, religion, sex, age or disability.
- Access to justice is a problem when individuals cannot afford representation or face barriers due to systemic discrimination. Legitimacy of the criminal-justice system depends on public perception that the process is fair and equitable.

### Competing models of criminal justice

- **Herbert Packer’s “due-process” vs. “crime-control” models**:
  - *Due process* stresses individual rights, fairness and restraints on state power, likened to an obstacle course.

# An Introduction To The Criminal Proceeb In Canada

**D Kirk**



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