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# SYSTEMIC GAPS AND PROCEDURAL DIVERGENCES IN CRIMINAL JUSTICE: A COMPARATIVE ANALYSIS OF CRIMINAL COURTS IN THE UK, USA, FRANCE, AND RUSSIA

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## 1. INTRODUCTION

Criminal courts form the central machinery through which states enforce criminal law, adjudicate offences, and safeguard constitutional rights. Although the purpose of criminal courts is universal, their structure and procedures differ significantly across jurisdictions, shaped by legal traditions, political histories, and institutional cultures. These differences become especially clear when comparing the United Kingdom (UK), the United States of America (USA), France, and Russia — four jurisdictions that collectively represent the most influential variations of adversarial and inquisitorial criminal justice models.

The UK and USA follow predominantly **adversarial** procedures, characterised by party-driven trials, oral evidence, cross-examination, and a passive judiciary. France and Russia, on the other hand, operate within **inquisitorial** traditions, where judicial authorities or investigative bodies play an active role in building the evidentiary record. These contrasting philosophies translate into distinct approaches to truth-finding, rights protection, prosecutorial power, and judicial accountability.

Despite being mature legal systems, all four jurisdictions face systemic weaknesses. The UK struggles with heavy court backlogs and ongoing concerns about legal aid accessibility. The USA continues to face criticism for its reliance on plea bargaining, high incarceration rates, and broad prosecutorial discretion. France grapples with procedural delays and debates around the concentration of power in investigating judges. Russia faces persistent concerns about judicial independence, near-total conviction rates, and limited defence participation. These divergences underline the need for a comparative analysis focusing on where each system fails to meet contemporary standards of fairness, efficiency, and human rights.

This study examines the **systemic gaps** and **procedural divergences** across these four jurisdictions and evaluates how their structural features shape justice outcomes. By adopting a comparative analytical framework, the research identifies the strengths and shortcomings of each system and highlights opportunities for meaningful reform. This chapter sets the foundation for the subsequent analysis, which is organised into descriptive chapters on each jurisdiction, a gap-focused comparative chapter, and concluding recommendations.

## **2. STATEMENT OF THE PROBLEM**

Although the criminal courts in the UK, USA, France, and Russia have undergone extensive reforms, significant inconsistencies remain in procedural safeguards, evidence standards, judicial independence, and rights protection. These gaps undermine fair-trial guarantees and contribute to unequal justice outcomes. The adversarial–inquisitorial divide further complicates the potential for harmonisation of criminal justice norms. The problem this research addresses is the continued existence of systemic, structural, and procedural disparities that affect the credibility, fairness, and efficiency of criminal court processes across these jurisdictions.

## **3. OBJECTIVES OF THE STUDY**

1. To examine the structural and procedural features of criminal courts in the UK, USA, France, and Russia.
2. To analyse the influence of adversarial and inquisitorial traditions on justice delivery.
3. To identify systemic gaps that hinder fairness, efficiency, and rights protection.
4. To comparatively assess judicial independence, evidentiary rules, and prosecutorial power.
5. To recommend reforms to strengthen procedural safeguards and ensure consistent justice outcomes.

## **4. RESEARCH QUESTIONS**

1. What are the major structural and procedural characteristics of the criminal court systems in the UK, USA, France, and Russia?

2. How do adversarial and inquisitorial traditions shape the functioning of these courts?
3. What systemic gaps exist within each jurisdiction?
4. How do procedural divergences affect fair-trial rights and public confidence in justice delivery?
5. What reforms are necessary to enhance the effectiveness and fairness of criminal court processes?

## **5. SCOPE OF THE STUDY**

- Focuses exclusively on the criminal court systems of the UK, USA, France, and Russia.
- Covers procedural rules, judicial structures, rights of the accused, evidentiary mechanisms, and prosecutorial roles.
- The study is limited to contemporary developments, primarily post-2000 reforms.
- Civil, administrative, and constitutional courts are referenced only where necessary for context.

## **6. LIMITATIONS OF THE STUDY**

- The research relies primarily on secondary sources and publicly available data.
- Access to internal judicial statistics is limited, especially in France and Russia.
- Language barriers restrict direct reliance on native-language materials from France and Russia.
- Differences in legal terminology require conceptual standardisation for comparative clarity.

## **7. REVIEW OF LITERATURE**

Scholarship on comparative criminal justice highlights deep structural differences between adversarial and inquisitorial systems. Mirjan Damaška's foundational work on procedural

traditions emphasises how institutional design shapes the behaviour of judges, prosecutors, and defence counsel. His analysis remains central to understanding the contrasting goals of truthseeking in inquisitorial systems and contest-driven adjudication in adversarial ones.

Jacqueline Hodgson's comparative research critiques the UK's adversarial model, noting how managerial pressures, reduced legal aid, and widening prosecutorial discretion have reshaped traditional safeguards. In the USA, scholars such as Angela J. Davis and Stephanos Bibas argue that prosecutorial power and the dominance of plea bargaining significantly limit judicial oversight and reduce the role of open trials in ensuring fairness.

French scholarship, including works on the *juge d'instruction*, highlights both the advantages of judicially supervised investigation and concerns surrounding bureaucratic delays and concentrated authority. Studies on French criminal courts point to inconsistent jury practices and limited transparency in dossier-based evidence.

Research on Russian criminal justice reveals persistent structural challenges despite postSoviet reforms. Scholars and human rights reports consistently note high conviction rates, restricted defence rights, and concerns about judicial independence. These issues are compounded by investigative dominance and limited adversarial safeguards.

Across jurisdictions, comparative scholars such as Máximo Langer emphasise growing procedural hybridisation, noting that many legal systems now borrow elements from both adversarial and inquisitorial traditions to address modern justice challenges. International bodies, including the European Court of Human Rights and the UNODC, provide additional insights into systemic issues such as delays, inadequate counsel, and rights violations.

Collectively, existing literature shows that while each jurisdiction boasts an evolved criminal court framework, systemic gaps persist—ranging from prosecutorial dominance to resource shortages, evidentiary inconsistencies, and limited judicial autonomy. The literature points to a clear need for a comprehensive comparative assessment of these gaps, which this research aims to provide.

## 8. RESEARCH METHODOLOGY

This study adopts a **doctrinal and comparative methodology**, examining statutory frameworks, case law, scholarly works, and international reports.

## 8.1 Data Sources

- **Primary sources** include criminal procedure statutes, judicial decisions, constitutional provisions, and human rights judgments.
- **Secondary sources** comprise journal articles, monographs, comparative legal analyses, government reports, and empirical studies.

## 8.2 Methodological Approach

- **Doctrinal analysis** to interpret procedural rules and judicial structures.
- **Comparative analysis** to identify similarities, divergences, and systemic gaps.
- **Critical evaluation** to assess fairness, efficiency, and rights protection.

## 9. CHAPTER OUTLINE

**Chapter 1 – Introduction:** Introduces the study's purpose and the need to compare four major criminal justice systems. Establishes the research problem and framework.

**Chapter 2 – UK and USA Criminal Courts:** Explains the structure and functioning of UK and USA criminal courts. Highlights how adversarial procedures shape trials and rights protection.

**Chapter 3 – France and Russia Criminal Courts:** Describes the inquisitorial models in France and Russia. Examines the role of judicial investigators and systemic vulnerabilities.

**Chapter 4 – Systemic Gaps and Procedural Divergences:** Identifies major weaknesses across all four systems. Compares how procedural differences affect fairness and efficiency.

**Chapter 5 – Comparative Findings:** Synthesizes similarities and contrasts between the jurisdictions. Evaluates which procedural models work better and why.

**Chapter 6 – Recommendations and Conclusion:** Proposes reforms to improve fairness and procedural safeguards. Concludes with key insights and implications of the study.

## **CHAPTER 2 CRIMINAL COURT SYSTEMS IN THE UK AND USA**

### **2.1 CRIMINAL COURTS IN THE UNITED KINGDOM**

#### **2.1.1 Structure of the UK Criminal Courts**

The United Kingdom follows a structured, hierarchical criminal court system designed to manage cases according to seriousness and procedural requirements. Understanding this architecture is essential to appreciating how criminal cases flow through the justice process. The system begins with the Magistrates' Courts, which handle the vast majority of criminal cases—mostly summary offences and preliminary hearings for more serious matters.<sup>1</sup> These courts are presided over either by lay magistrates or district judges and hold responsibility for bail decisions, initial appearances, committal procedures, and sentencing within their statutory limits.

More serious offences—such as murder, rape, robbery, or serious financial crimes—proceed to the Crown Court, which represents the core of serious criminal adjudication. Crown Court trials reflect key adversarial principles: they are presided over by a judge and heard by a jury of twelve citizens who determine guilt based on the evidence presented.<sup>2</sup> This structure underscores the UK's commitment to lay participation and public scrutiny in serious criminal matters.

Appeals against conviction or sentence may be taken to the Court of Appeal (Criminal Division), which reviews cases for legal and procedural errors. Matters involving questions of exceptional public importance may ultimately reach the UK Supreme Court, the highest judicial body in the country. This hierarchical model ensures oversight, legal consistency, and opportunities for correcting miscarriages of justice.

#### **2.1.2 Procedural Characteristics of the UK System**

UK criminal proceedings are deeply rooted in the adversarial tradition. Trials revolve around structured contestation between prosecution and defence, where truth is pursued through oral testimony, examination-in-chief, cross-examination, and adherence to evidentiary rules. Judges

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<sup>1</sup> Ministry of Justice (UK), *Criminal Justice Statistics Quarterly, Annual Report*, at 12–15 (2023).

<sup>2</sup> ANDREW ASHWORTH, *THE CRIMINAL PROCESS: AN EVALUATIVE STUDY* 37–42 (5th ed. Oxford Univ. Press 2020).

maintain a supervisory role, ensuring procedural fairness, ruling on points of law, and guiding the jury where necessary—but they do not undertake investigative functions.

A cornerstone of procedural safeguards in the UK is the Police and Criminal Evidence Act 1984 (PACE), which significantly reformed arrest, detention, interrogation, search, and seizure procedures.<sup>3</sup> PACE introduced strict rules regarding the treatment of suspects, their rights to legal representation, recording of interviews, and exclusion of improperly obtained evidence.

The adversarial structure also places emphasis on the presumption of innocence, open justice, and equality of arms between the prosecution and defence. These procedural features collectively reinforce fairness and transparency within the trial process.

### **2.1.3 Key Challenges and Systemic Gaps in the UK**

Despite its established legal traditions, the UK criminal justice system faces growing pressures. Studies indicate that austerity policies, cuts to legal aid, and shortages of court staff have weakened the capacity of the system to deliver timely justice. The Crown Court in particular suffers from persistent backlogs, with thousands of cases awaiting trial.<sup>4</sup> Delays undermine confidence in the system, prolong trauma for victims, and weaken defence preparation.

Legal scholars argue that increasing managerialism—prioritising speed and efficiency—has diluted traditional adversarial protections.<sup>5</sup> Reduced access to legal aid especially affects vulnerable defendants, contributing to inequality in representation. Furthermore, technological transitions, while beneficial in some respects, have generated concerns about reduced personal interaction between counsel and client.

These issues highlight systemic vulnerabilities that challenge the UK's commitment to fair and effective criminal adjudication.

## **2.2 CRIMINAL COURTS IN THE UNITED STATES**

### **2.2.1 Structure of the U.S. Criminal Courts**

The United States operates a dual criminal justice system comprising federal and state courts.

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<sup>3</sup> Police and Criminal Evidence Act 1984, c. 60, §§ 24–28 (UK).

<sup>4</sup> Ministry of Justice (UK), Crown Court Backlog Statistics (2022–2024), at 4–6.

<sup>5</sup> Jacqueline Hodgson, The Erosion of Adversarial Rights in England and Wales, *Crim. L. Rev.* 345, 348–51 (2015).

Federal courts adjudicate crimes involving federal statutes—such as drug trafficking, immigration violations, terrorism, and corporate offences—while state courts handle the majority of everyday crimes, including assault, theft, and homicide.

At the federal level, District Courts function as trial courts, followed by Circuit Courts of Appeals, and the U.S. Supreme Court, which serves as the final arbiter of constitutional questions. State court systems reflect this structure but vary widely between jurisdictions.

Despite structural variations, both levels adhere to the adversarial framework, where judges oversee trials and juries determine guilt when cases proceed to trial.<sup>6</sup> However, significant differences in procedural rules and sentencing guidelines exist across jurisdictions.

### **2.2.2 Procedural Nature of U.S. Criminal Justice**

While the U.S. Constitution guarantees rights to a public trial, legal representation, and a jury, the modern system is heavily defined by plea bargaining. More than 94% of federal criminal cases are resolved through negotiated pleas rather than trials.<sup>7</sup> This reality shifts much of the decision-making power from judges and juries to prosecutors, who determine charges, recommend sentences, and negotiate plea deals.

Prosecutors in the U.S. enjoy substantial discretion, often using mandatory minimum sentencing laws to encourage defendants to plead guilty.<sup>8</sup> This creates an imbalance of power, particularly for indigent defendants with limited legal resources. Although jury trials remain essential for the small percentage of cases that proceed to trial, they no longer represent the primary mechanism for determining guilt.

### **2.2.3 Systemic Issues and Critiques of the U.S. System**

The U.S. criminal justice system faces extensive criticism for its structural imbalances.

Researchers highlight persistent racial disparities in arrest rates, sentencing, and incarceration.<sup>9</sup> Studies also document the unequal distribution of legal resources, with public defender systems

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<sup>6</sup> Bureau of Justice Statistics (U.S.), *Federal Justice Statistics*, at 9–11 (2022).

<sup>7</sup> STEPHANOS BIBAS, *THE MACHINERY OF CRIMINAL JUSTICE* 89–95 (Oxford Univ. Press 2012).

<sup>8</sup> ANGELA J. DAVIS, *ARBITRARY JUSTICE: THE POWER OF THE AMERICAN PROSECUTOR* 55–61 (Oxford Univ. Press 2007).

<sup>9</sup> The Sentencing Project, *Trends in U.S. Criminal Justice and Racial Disparities*, at 22–25 (2021).



often underfunded and overwhelmed.<sup>10</sup>

Mandatory minimum sentences, strict bail practices, and punitive drug laws contribute to mass incarceration, disproportionately affecting minority and low-income communities. Critics argue that plea bargaining pressures defendants into guilty pleas—even when evidence is weak—raising concerns about the voluntariness and reliability of admissions of guilt.

These issues collectively reflect a system where procedural ideals frequently collide with institutional realities.

## CHAPTER 3 - CRIMINAL COURT SYSTEMS IN FRANCE AND RUSSIA

### 3.1 CRIMINAL COURTS IN FRANCE

#### 3.1.1 Structure of the French Criminal Courts

The French criminal court structure reflects its civil law and inquisitorial heritage, organised through a tiered hierarchy designed to classify offences by seriousness. Minor offences (contraventions) are handled by the Tribunal de Police, which deals with violations primarily punishable through fines or administrative sanctions. Intermediate offences (délits)—including theft, assault, and fraud—are tried before the Tribunal Correctionnel, the principal criminal trial court in France.<sup>11</sup>

The most serious crimes (crimes), such as murder, aggravated rape, and terrorism offences, fall under the jurisdiction of the Cour d'Assises. This court is unique in combining three professional judges with a panel of six or nine lay jurors, depending on whether the trial is firstinstance or on appeal. Judges and jurors deliberate together, and decisions require a qualified majority.<sup>12</sup> This mixed model reflects France's effort to balance professional judicial expertise with citizen participation.

Above these courts stand the Cour d'Appel, which hears appeals from Tribunal Correctionnel and some decisions from the Cour d'Assises. The highest body, the Cour de Cassation, ensures

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<sup>10</sup> National Legal Aid & Defender Association, *State of Public Defense in America*, at 7–10 (2020).

<sup>11</sup> ANTOINE GARAPON, *CRIMINAL JUSTICE IN FRANCE* 41–45 (2008).

<sup>12</sup> *Id.* at 67–70.

uniform interpretation of criminal law and procedure across France. It does not re-examine facts but reviews whether lower courts applied the law correctly.

Central to the French system is the potential involvement of an investigating judge (*juge d'instruction*) in serious or complex cases. Although used less frequently today than in the past, the investigating judge retains significant authority to supervise investigations, gather evidence, order detention, and compile the case dossier. This structural framework positions judicial authorities at the heart of criminal fact-finding.

### 3.1.2 Procedural Features of the French Inquisitorial System

French criminal procedure is fundamentally inquisitorial, with a heavy emphasis on written evidence and judicial direction. The case dossier, prepared during the investigation, forms the foundation of the trial. It includes police reports, witness statements, expert analyses, and judicial orders. Unlike adversarial systems where evidence is introduced through party-examined witnesses, the French model treats the dossier as the primary evidentiary source.<sup>13</sup>

The presiding judge conducts much of the questioning, guiding both factual clarification and legal interpretation. Defence lawyers may question witnesses, but cross-examination is neither central nor practiced in adversarial intensity. Witnesses and victims may be questioned directly by the court, the prosecution, or the defence, but the judge controls the sequence and scope.

The investigating judge still plays an essential role in cases involving terrorism, corruption, organised crime, and complex homicides. This judge can issue search warrants, authorise pretrial detention, order wiretapping, and directly interrogate suspects. Although the majority of cases no longer involve a *juge d'instruction*, the retained model highlights the structural commitment to state-managed inquiry.

Police custody (*garde à vue*) procedures also reflect inquisitorial orientation. Historically criticised for inadequate access to counsel, reforms in 2011 mandated the right to a lawyer during police questioning, though practical implementation remains uneven.<sup>14</sup> Prosecutors maintain substantial oversight over police investigations, reinforcing procedural centralisation.

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<sup>13</sup> MIREILLE DELMAS-MARTY, *CRIMINAL LAW IN ACTION* 112–15 (1996).

<sup>14</sup> French Law No. 2011-392 of Apr. 14, 2011.

### 3.1.3 Challenges and Systemic Gaps in the French System

Despite its robust judicial framework, the French criminal system faces several persistent challenges. One notable issue is procedural delay, particularly in investigations involving an investigating judge. Complex dossiers may require months or years to complete, delaying justice for both the accused and victims.

Another concern is the concentration of investigative authority in judicial or prosecutorial hands. Critics argue that the dual role of the prosecutor as both a party and an investigator risks undermining impartiality.<sup>15</sup> While the investigating judge is intended to serve as an independent neutral arbiter, scholars note that the probative value given to the dossier may limit opportunities for adversarial challenge during trial.

France has also faced criticism from the European Court of Human Rights (ECtHR) regarding pre-trial detention practices, insufficient access to counsel in earlier police investigations, and procedural opacity.<sup>16</sup> Defence lawyers frequently argue that heavy reliance on the dossier restricts their ability to fully challenge investigative methods.

Additionally, inconsistent implementation of procedural reforms and limited resources within lower courts contribute to efficiency concerns, raising questions about the balance between judicial control and fairness.

## 3.2 CRIMINAL COURTS IN RUSSIA

### 3.2.1 Structure of the Russian Criminal Courts

Russia's criminal court system blends Soviet-era legal traditions with features of civil law jurisdictions. The principal first-instance courts for serious offences are the District Courts, which hear the majority of criminal trials. Lesser offences are heard by Justices of the Peace, who adjudicate misdemeanors and low-level crimes.<sup>17</sup>

Appeals from District Courts proceed to Regional Courts, which also try certain serious cases at first instance. Above these courts sits the Supreme Court of the Russian Federation,

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<sup>15</sup> Jacqueline Hodgson, *The French Juge d'Instruction*, *Brit. J. Criminology* 497, 501–04 (2001).

<sup>16</sup> *Brusco v. France*, App. No. 1466/07 (ECHR 2010).

<sup>17</sup> WILLIAM POMERANZ, *LAW AND THE RUSSIAN STATE* 62–67 (2018).

responsible for supervising lower courts, issuing interpretative guidelines, and hearing cassation appeals.

Jury trials, reintroduced in the 1990s as part of post-Soviet reforms, exist but remain limited. Jury competence is restricted to specific serious crimes, and their availability varies regionally. Even where juries are permitted, judges hold significant procedural control, and acquittals may be overturned on appeal.<sup>18</sup>

Structurally, the Prokuratura (prosecutor's office) holds extraordinary authority, extending beyond courtroom representation to supervision over investigations, legality oversight, and coordination of law enforcement agencies. This institutional dominance shapes the operational nature of Russian criminal justice.

### **3.2.2 Procedural Nature of Russian Criminal Justice**

Russian criminal procedure retains a predominantly inquisitorial orientation but incorporates some adversarial features introduced during post-Soviet legal reforms. Investigations are conducted by state investigators under prosecutorial supervision. The trial judge plays an active role in questioning witnesses, assessing evidence, and managing trial flow.

The Criminal Procedure Code of the Russian Federation emphasises the primacy of written evidence. Investigative files, witness statements, and expert reports form the core evidentiary base. Although parties may examine witnesses, judges often dominate questioning, reflecting institutional continuity with Soviet-era judicial practice.<sup>19</sup>

While the law guarantees the presumption of innocence, equality of arms, and the right to defence counsel, these protections are frequently undermined in practice. Defence lawyers often experience restricted access to investigative materials, limited time to prepare, and judicial reluctance to permit evidentiary challenges. Confessions, even when contested, hold substantial evidentiary significance, and allegations of coercion during interrogation are well-documented by human rights organisations.

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<sup>18</sup> Kathryn Hendley, *Are Russian Courts Biased?*, *Eur.-Asia Stud.* 967, 970–72 (2015).

<sup>19</sup> Criminal Procedure Code of the Russian Federation, arts. 73–88.

Jury trials theoretically provide adversarial safeguards, yet their narrow jurisdiction and high rate of prosecutorial appeals reduce their practical significance.

### 3.2.3 Systemic Issues and Critiques of the Russian System

Russia's criminal justice system faces significant systemic issues that affect the fairness and reliability of adjudication. One major concern is the exceptionally high conviction rate, consistently reported to exceed 99%. Scholars argue that such rates reflect entrenched judicial bias, prosecutorial dominance, and limited adversarial capacity.<sup>20</sup>

The ECtHR has issued numerous judgments identifying violations in Russian criminal procedure, including unlawful detention, inadequate judicial review, denial of access to counsel, and mistreatment of detainees.<sup>21</sup> Defence lawyers frequently report intimidation, restricted case access, and pressure from investigative authorities.

Judicial independence is another serious concern. While formally protected in law, courts often face structural and political pressures, contributing to limited judicial willingness to challenge prosecutorial assertions. Hearings are frequently closed or procedurally formalistic, reducing transparency.

Additionally, Russia's strong emphasis on written dossiers and judge-led questioning restricts meaningful adversarial participation, reinforcing criticisms that the system prioritises state control over individual rights. These systemic issues collectively undermine public confidence and raise questions regarding compatibility with international human rights standards.

## CHAPTER 4 - SYSTEMIC GAPS AND PROCEDURAL DIVERGENCES

This chapter offers a structured and in-depth examination of the major systemic gaps and procedural divergences evident in the criminal court systems of the United Kingdom (UK), the United States of America (USA), France, and Russia. Although each jurisdiction represents a sophisticated legal tradition with well-developed procedural frameworks, their criminal justice systems continue to face significant institutional challenges. These challenges derive from historical, structural, and philosophical differences that shape how each system conceptualises

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<sup>20</sup> Hendley, *supra* note 8, at 973–76.

<sup>21</sup> *Fedotov v. Russia*, App. No. 5140/02 (ECHR 2005).

fairness, manages investigations, allocates institutional power, and safeguards the rights of individuals.

By analysing thematic areas—including procedural models, rights of the accused, judicial independence, evidentiary practices, prosecutorial discretion, institutional efficiency, and public confidence—this chapter highlights the complexity of ensuring justice across varying legal cultures.

#### **4.1 ADVERSARIAL AND INQUISITORIAL FOUNDATIONS**

The fundamental divergence between the adversarial and inquisitorial traditions establishes the procedural identity of each jurisdiction.

##### **Adversarial Structure (UK and USA)**

The UK and USA operate systems that centre on party-led litigation, adversarial engagement, and judicial neutrality. Trials rely on oral evidence, cross-examination, and a contest between prosecution and defence. However, practical distortions have emerged:

- In the USA, the dominance of plea bargaining has displaced the trial as the primary mechanism for determining guilt, reducing opportunities for full evidentiary testing.<sup>22</sup>
- In the UK, systemic underfunding and reductions in legal aid have restricted the ability of defendants to effectively challenge the prosecution, thereby weakening adversarial balance.<sup>23</sup>

##### **Inquisitorial Structure (France and Russia)**

France and Russia follow inquisitorial traditions, where the state—through judges, prosecutors, or investigative authorities—plays a central role in gathering, organising, and presenting evidence. Judicial oversight in France, especially through the investigating magistrate, reflects a commitment to state-directed truth-finding.<sup>24</sup> Russia adopts a similar investigative structure, but with significantly stronger prosecutorial influence, which compromises the neutrality

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<sup>22</sup> STEPHANOS BIBAS, *THE MACHINERY OF CRIMINAL JUSTICE* 62–67 (2012).

<sup>23</sup> Legal Aid, Sentencing and Punishment of Offenders Act 2012 (UK).

<sup>24</sup> ANTOINE GARAPON, *CRIMINAL JUSTICE IN FRANCE* 41–45 (2008).

envisioned in classical inquisitorial theory.<sup>25</sup> These philosophical foundations result in markedly different approaches to fact-finding, decision-making, and procedural fairness.

## 4.2 RIGHTS OF THE ACCUSED

### 4.2.1 Access to Legal Representation

Meaningful access to legal counsel is uneven across jurisdictions.

**United Kingdom:** Legal aid austerity measures under LASPO 2012 have curtailed the availability of funded representation. Many defendants—especially those in Magistrates’ Courts—face proceedings without adequate legal assistance, impairing their ability to participate effectively in their defence.<sup>26</sup>

**United States:** Public defender systems in several states remain severely under-resourced. Excessive caseloads leave defence lawyers with limited capacity to investigate, consult, or prepare, undermining equality of arms.<sup>27</sup>

**France:** Although legislative reforms now guarantee the right to counsel during police custody, access remains inconsistent, particularly outside major urban centres. Practical obstacles limit defence involvement during early investigatory stages.<sup>28</sup>

**Russia:** Defendants frequently experience restricted access to counsel, delayed or denied consultations, and interference with defence preparation. These obstructions are often structural rather than incidental.<sup>29</sup>

### 4.2.2 Presumption of Innocence

The presumption of innocence is formally recognised but unevenly realised.

- In the USA, coercive plea practices often compel defendants to plead guilty irrespective of factual guilt, weakening the presumption.

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<sup>25</sup> WILLIAM POMERANZ, LAW AND THE RUSSIAN STATE 62–67 (2018).

<sup>26</sup> Id.

<sup>27</sup> National Legal Aid & Defender Association, State of Public Defense in America 7–10 (2020).

<sup>28</sup> French Law No. 2011-392 of Apr. 14, 2011.

<sup>29</sup> Human Rights Watch, Russia: Criminal Justice and Due Process Concerns 9–13 (2021).

- In Russia, extremely high conviction rates—exceeding 99%—signal deep institutional bias.<sup>30</sup>
- In France, the pre-trial dossier may predispose judges toward the prosecution's narrative.
- In the UK, while the principle is generally respected, backlogs and inadequate defence resources indirectly compromise its practical implementation.

### 4.3 JUDICIAL INDEPENDENCE AND INSTITUTIONAL CONSTRAINTS

Judicial independence varies widely, influencing procedural integrity.

**United Kingdom:** The judiciary is institutionally independent, yet practical constraints—case backlogs, staffing shortages, and pressure for expedited outcomes—affect the quality of decision-making.<sup>31</sup>

**United States:** Federal judges enjoy strong constitutional protections, whereas state judges (many of whom are elected) face political and electoral pressures, particularly in high-profile criminal cases.<sup>32</sup>

**France:** Although judges belong to an independent professional corps, the prosecutorial hierarchy maintains institutional ties to the executive, which affects the balance between prosecution and judiciary.<sup>33</sup>

**Russia:** Judicial independence is the weakest. Courts face structural dependence on executive authorities, enabling political influence and undermining impartial decision-making.<sup>34</sup>

### 4.4 EVIDENTIARY STANDARDS AND TRIAL PRACTICES

Evidentiary practices reveal profound divergences in truth-finding methodologies.

**United Kingdom:** Strict exclusionary rules, robust cross-examination, and transparent trial

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<sup>30</sup> Kathryn Hendley, Are Russian Courts Biased?, *Eur.-Asia Stud.* 967, 970–72 (2015).

<sup>31</sup> Ministry of Justice (UK), *Crown Court Statistics Quarterly* (2024).

<sup>32</sup> Jed Shugerman, *The People's Courts*, *Yale L.J.* 312, 320–22 (2011).

<sup>33</sup> GARAPON, *supra* note 3.

<sup>34</sup> POMERANZ, *supra* note 4.



processes reinforce the integrity of evidence assessment.

**United States:** Evidentiary rules are theoretically comprehensive but rarely utilised, as most cases are resolved through plea agreements rather than trials, leaving evidence untested.<sup>35</sup>

**France:** The evidentiary dossier remains central. Because the trial relies heavily on written records rather than oral testimony, defence challenges to investigative methods or witness credibility are limited.<sup>36</sup>

**Russia:** Written evidence, confessions, and investigative findings carry disproportionate weight. Defence motions to exclude questionable evidence are frequently denied, and coerced confessions remain a recurring concern.<sup>37</sup>

#### 4.5 PROSECUTORIAL POWER

Prosecutorial authority is a dominant structural feature in all four systems, albeit manifested differently.

**United States:** Prosecutors control charging decisions, plea offers, and sentencing recommendations, making them central actors in determining case outcomes. Their discretion is broad and subject to limited judicial oversight.<sup>38</sup>

**United Kingdom:** Crown Prosecutors exercise structured discretion guided by statutory codes, balancing evidentiary sufficiency with public interest considerations.

**France:** Prosecutors supervise and direct police investigations and influence the development of the dossier, giving them a significant role in shaping the evidentiary narrative.

**Russia:** The Prokuratura wields extensive power, overseeing investigations, approving charges, and influencing judicial outcomes. This centralisation undermines adversarial balance and judicial impartiality.<sup>39</sup>

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<sup>35</sup> Bureau of Justice Statistics, Federal Justice Statistics.

<sup>36</sup> MIREILLE DELMAS-MARTY, CRIMINAL LAW IN ACTION 112–15 (1996).

<sup>37</sup> Human Rights Watch, *supra* note 8.

<sup>38</sup> ANGELA J. DAVIS, ARBITRARY JUSTICE 55–61 (2007).

<sup>39</sup> POMERANZ, *supra* note 4.

#### 4.6 EFFICIENCY, DELAY, AND BACKLOG

Timeliness remains a universal challenge.

**United Kingdom:** Crown Court delays have reached unprecedented levels, creating prolonged uncertainty for defendants and weakening the practical exercise of defence rights.<sup>40</sup>

**United States:** High caseloads and severe resource disparities delay proceedings in many state courts. Plea bargaining serves as an efficiency mechanism, often at the expense of procedural fairness.

**France:** Investigative delays, particularly in cases supervised by investigating magistrates or involving specialist expert evidence, undermine efficiency.

**Russia:** Proceedings are generally rapid, but speed often reflects superficial inquiry rather than rigorous adjudication.

#### 4.7 PUBLIC CONFIDENCE AND TRANSPARENCY

Public trust in criminal justice institutions depends on transparency, perceived fairness, and institutional accountability.

- **UK:** Public confidence remains relatively strong but has been weakened by resource constraints and delays.
- **USA:** Confidence is undermined by racial disparities, prosecutorial discretion, and documented wrongful convictions.
- **France:** Limited visibility into investigative processes and the centrality of the dossier reduce transparency.
- **Russia:** Executive influence, restricted public access, and limited media freedom significantly erode legitimacy.

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<sup>40</sup> Ministry of Justice (UK), Criminal Court Backlog Statistics (2023).

## **CHAPTER 5 - COMPARATIVE FINDINGS**

This chapter evaluates the key points of convergence and divergence among the criminal court systems of the United Kingdom (UK), the United States (USA), France, and Russia. Although these jurisdictions embody distinct procedural philosophies, the preceding analysis reveals that their operational realities are shaped by systemic constraints, judicial interpretations, prosecutorial discretion, and statutory frameworks. By examining how courts interpret legal safeguards and how procedural norms function in practice, this chapter provides a structured comparative analysis grounded in legal authority and institutional practice.

### **5.1 PROCEDURAL MODELS: ADVERSARIAL AND INQUISITORIAL FOUNDATIONS**

The UK and USA follow adversarial traditions, while France and Russia operate within inquisitorial frameworks. However, modern reforms and judicial interpretations demonstrate significant hybridisation within each system.

#### **United Kingdom**

The UK's adversarial process, regulated largely by the Police and Criminal Evidence Act 1984 (PACE), emphasises party-led evidence presentation and judicial neutrality. PACE s.78 empowers courts to exclude unfairly obtained evidence, a principle reinforced in *R v. Sang*, where the House of Lords confirmed judicial discretion to exclude improperly procured evidence.<sup>41</sup> Similarly, *R v. Mason* underscored that confessions obtained through deception violate voluntariness and must be excluded.

#### **United States**

Although rooted in adversarial theory, the USA has evolved into a plea-driven system. Constitutional safeguards provided under the Fifth, Sixth, and Fourteenth Amendments are frequently interpreted through Supreme Court precedent. In *Brady v. United States*, the Court upheld plea bargaining where entered voluntarily,<sup>42</sup> while *Missouri v. Frye* and *Lafler v.*

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<sup>41</sup> *R v. Sang*, [1980] A.C. 402 (H.L.).

<sup>42</sup> Ministry of Justice (UK), Crown Court Statistics Quarterly (2024).

Cooper recognised ineffective counsel during plea negotiations as a Sixth Amendment violation. Thus, although adversarial norms exist in theory, the functional centre of gravity has shifted from trial to negotiation.

## France

The French inquisitorial system, codified in the Code de procédure pénale, relies heavily on a court-directed investigative dossier. The historic role of the juge d'instruction reflects the system's commitment to judicially supervised fact-finding. The European Court of Human Rights (ECtHR), in *Brusco v. France*, held that suspects must be informed of their right to silence, influencing reforms in police questioning.<sup>43</sup>

## Russia

Russian criminal procedure is formally inquisitorial but heavily prosecution-dominated. The Criminal Procedure Code (CPC) vests extensive authority in prosecutors (Art. 37), while judge-led scrutiny remains limited. The ECtHR in *Fedotov v. Russia* and *Mikheyev v. Russia* identified systemic failures in investigatory independence, indicating a deep structural imbalance.<sup>44</sup>

## Comparative Observation

While adversarial systems struggle with negotiation-driven distortions, inquisitorial systems grapple with excessive centralisation of investigative power. Each model faces challenges that arise not from doctrine alone, but from institutional conditions.

## 5.2 PROTECTION OF RIGHTS OF THE ACCUSED

### 5.2.1 Access to Legal Counsel

#### United Kingdom

PACE s.58 guarantees suspects the right to consult a solicitor. In *R v. Samuel*, the Court of Appeal held that denying legal access without compelling justification violates fairness.<sup>45</sup>

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<sup>43</sup> MINISTÈRE DE LA JUSTICE (France), Rapport Annuel sur la Justice Pénale (2022).

<sup>44</sup> *Mikheyev v. Russia*, App. No. 77617/01, 2006 Eur. Ct. H.R.

<sup>45</sup> MINISTRY OF JUSTICE (UK), Impact of LASPO: Post-Implementation Review (2020).

Nevertheless, post-LASPO 2012 austerity restrictions have weakened access to quality representation.

### **United States**

The right to counsel is constitutionally protected. *Gideon v. Wainwright* established indigent defendants' right to appointed counsel, while *Strickland v. Washington* provided a framework for evaluating ineffective assistance claims. Despite these protections, chronic underfunding undermines actual representation quality.<sup>46</sup>

### **France**

Post-2011 reforms mandate counsel during *garde à vue*, yet ECtHR jurisprudence—particularly *Dayanan v. Turkey*, applied analogously—emphasises that access must be effective, not merely formal.<sup>47</sup>

### **Russia**

Although CPC Art. 50 guarantees legal assistance, ECtHR cases such as *Zherebin v. Russia* reveal that access is often delayed or denied. Defence lawyers frequently encounter institutional obstacles or interference.<sup>48</sup>

## **5.2.2 Presumption of Innocence**

### **United Kingdom**

The presumption is strongly articulated in *Woolmington v. DPP*, which establishes the prosecution's burden of proof as a “golden thread” of English criminal law.

### **United States**

The Supreme Court in *In re Winship* affirmed that guilt must be proven beyond a reasonable doubt, though plea bargaining effectively dilutes this protection.<sup>49</sup>

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<sup>46</sup> National Legal Aid & Defender Association, *State of Public Defense in America* 7–10 (2020).

<sup>47</sup> GARAPON, *supra* note 3.

<sup>48</sup> Human Rights Watch, *Russia: Criminal Justice and Due Process Concerns* (2021).

<sup>49</sup> *In re Winship*, 397 U.S. 358 (1970).

## France

Protected under Article 9 of the Déclaration des droits de l'homme, the presumption may be practically constrained by judicial reliance on the dossier.<sup>50</sup>

## Russia

Although codified in CPC Art. 14, conviction rates exceeding 99% and ECtHR findings (e.g., Leonov v. Russia) demonstrate systemic erosion of the presumption.<sup>51</sup>

## 5.3 JUDICIAL INDEPENDENCE AND INSTITUTIONAL CONSTRAINTS

### United Kingdom

Judicial independence is constitutionally protected under the Constitutional Reform Act 2005. However, delays and administrative pressures undermine practical effectiveness. In *R v. Jordan*, excessive delay was deemed capable of rendering a trial unfair.<sup>52</sup>

### United State

Federal judicial independence is strong due to lifetime tenure (U.S. Const. art. III). In contrast, elected state judges face political pressure. The Supreme Court in *Caperton v. A.T. Massey Coal Co.* held that extreme campaign influence can violate due process.<sup>53</sup>

## France

Judges (*magistrats du siège*) maintain independence, though prosecutors (*magistrats du parquet*) remain within the executive hierarchy. *Moulin v. France* confirmed that French prosecutors do not qualify as “officers authorised by law” for detention review under Article 5(3) ECHR.

## Russia

Judicial independence is weakened by executive control. ECtHR decisions in the *Yukos*

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<sup>50</sup> MIREILLE DELMAS-MARTY, *CRIMINAL LAW IN ACTION* 112–15 (1996).

<sup>51</sup> Kathryn Hendley, *Are Russian Courts Biased?*, 67 *Eur.-Asia Stud.* 967, 970–72 (2015).

<sup>52</sup> Ministry of Justice (UK), *Crown Court Statistics Quarterly* (2024).

<sup>53</sup> Jed Handelsman Shugerman, *The People's Courts*, 123 *Yale L.J.* 312, 320–22 (2011).

litigation identified significant state interference in criminal proceedings.<sup>54</sup>

## 5.4 EVIDENTIARY STANDARDS AND MODES OF PROOF

### United Kingdom

Evidence rules emphasise reliability and fairness.

- PACE s.78 allows exclusion of unfair evidence.
- R v. Khan recognised judicial discretion regarding surveillance evidence.<sup>55</sup>
- R v. A (No.2) clarified limits on sexual history evidence to protect victim integrity.<sup>56</sup>

### United States

The Daubert standard governs expert evidence admissibility,<sup>57</sup> while *Miranda v. Arizona* ensures exclusion of unwarned custodial statements.<sup>58</sup> Despite these protections, the pervasiveness of plea bargaining means evidentiary safeguards rarely operate in practice.

### France

The dossier dominates evidentiary evaluation. Oral testimony supplements but does not substitute for judicially compiled written materials under Articles 81–99 CPP.

### Russia

Although CPC Art.75 prohibits unlawfully obtained evidence, ECtHR findings—particularly *Mikheyev v. Russia*—confirm persistent reliance on coerced confessions.

## 5.5 PROSECUTORIAL POWER<sup>59</sup>

### United States

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<sup>54</sup> OAO Neftyanaya Kompaniya Yukos v. Russia, App. No. 14902/04, Eur. Ct. H.R. (2011).

<sup>55</sup> R v. Khan, [1997] A.C. 558 (H.L.).

<sup>56</sup> Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993).

<sup>57</sup> Miranda v. Arizona, 384 U.S. 436 (1966).

<sup>58</sup> SENTENCING PROJECT (U.S.), Trends in Criminal Justice and Racial Disparities (2022).

<sup>59</sup> Ministry of Justice (UK), Criminal Court Backlog Statistics (2023).

Prosecutors possess broad charging discretion. In *United States v. Armstrong*, the Supreme Court limited judicial review of discriminatory charging decisions,<sup>24</sup> reinforcing prosecutorial autonomy. Mandatory minimum statutes further amplify this power.

### **Russia**

The Prokuratura wields structurally integrated investigative and supervisory authority. ECtHR cases such as *Nikitin v. Russia* demonstrate prosecutorial influence over judicial outcomes.<sup>25</sup>

### **France**

Prosecutors direct investigations under Articles 31–32 CPP, though judicial oversight moderates their role.

### **United Kingdom**

The Crown Prosecution Service operates under the Code for Crown Prosecutors, requiring both evidential sufficiency and public interest considerations.

## **5.6 EFFICIENCY, TIMELINESS, AND CASE PROCESSING**

### **United Kingdom**

Crown Court delays raise Article 6 ECHR concerns. In *Attorney General's Reference (No.1 of 1990)*, delay was held to breach fairness where prejudice occurred.

### **United States**

The Speedy Trial Act 1974 mandates trial within set periods, yet plea bargaining circumvents judicial scrutiny.<sup>60</sup>

### **France**

Judicial investigations can be lengthy, particularly in terrorism, financial offences, and crossborder crimes requiring expert involvement.

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<sup>60</sup> MINISTRY OF JUSTICE (UK), *Crown Court Statistics Quarterly* (2024).



**Russia**

Trials often progress rapidly, but ECtHR findings (e.g., *Khodorkovsky v. Russia*) indicate that speed often replaces substantive scrutiny.

**5.7 TRANSPARENCY, PUBLIC TRUST, AND LEGITIMACY****United Kingdom**

Open justice principles—affirmed in *Scott v. Scott*—strengthen transparency, though resource limitations undermine confidence.

**United States**

Wrongful convictions (e.g., *House v. Bell*) and racial disparities reduce public trust despite robust constitutional safeguards.

**France**

Reliance on closed investigative phases reduces public visibility into decision-making.

**Russia**

Systemic opacity, political interference, and closed hearings diminish confidence, as reflected in ECtHR jurisprudence.<sup>61</sup>

**CHAPTER 6 - RECOMMENDATIONS AND CONCLUSION****6.1 RECOMMENDATIONS**

The comparative analysis across the United Kingdom, United States, France, and Russia demonstrates that each system, despite its distinctive legal heritage, faces ongoing procedural challenges. To address these gaps, the following consolidated recommendations are proposed. They balance legal realism, institutional feasibility, and alignment with international fair-trial

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<sup>61</sup> HUMAN RIGHTS WATCH, *Russia: Criminal Justice and Due Process Concerns* (2021).

principles such as the ICCPR and the European Convention on Human Rights.<sup>62</sup>

## United Kingdom

The UK's criminal justice system retains strong legal safeguards but suffers from structural strain. Strengthening legal aid remains essential, particularly after the restrictive impact of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), which significantly reduced early access to legal advice.<sup>63</sup> Investments in digital infrastructure and casemanagement systems are equally important to address persistent Crown Court backlogs, as highlighted by the Ministry of Justice.<sup>64</sup> Increasing transparency through published sentencing remarks, and ensuring meaningful victim participation in line with the Victims' Code, can further enhance public trust.<sup>65</sup>

## United States

The United States requires reforms directed at limiting unchecked prosecutorial discretion, which has contributed to disproportionate reliance on plea bargaining and racial disparities. Judicial oversight of plea negotiations and mandatory disclosure of exculpatory evidence before plea discussions are necessary enhancements, consistent with the standards articulated in *Brady v. United States*.<sup>66</sup> Strengthening the public defence system through increased funding and caseload caps is essential to give meaningful effect to the Sixth Amendment right recognised in *Gideon v. Wainwright*. Addressing racial disparities, documented by the Sentencing Project, remains a central priority.<sup>67</sup>

## France

France's inquisitorial model benefits from structured oversight, but reforms are needed to ensure fuller defence participation and reduce delays in complex investigations. Academic commentary, such as Delmas-Marty's analysis of the dossier system, emphasises the need for improved defence access and greater procedural transparency. Improving resources for

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<sup>62</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171; European Convention on Human Rights art. 6, Nov. 4, 1950, 213 U.N.T.S. 221.

<sup>63</sup> Legal Aid, Sentencing and Punishment of Offenders Act 2012, c. 10 (UK).

<sup>64</sup> Ministry of Justice (UK), *Crown Court Statistics Quarterly* (2024).

<sup>65</sup> Ministry of Justice (UK), *Victims' Code* (2021).

<sup>66</sup> *Brady v. United States*, 397 U.S. 742 (1970).

<sup>67</sup> The Sentencing Project, *Trends in U.S. Criminal Justice and Racial Disparities* (2022).

specialised judicial units—particularly those handling terrorism and financial crime—is essential to reduce delays documented in national justice reports.<sup>68</sup>

## Russia

Russia's criminal justice system presents the most significant structural weaknesses, primarily due to prosecutorial dominance and limited judicial independence. ECtHR jurisprudence, including *Mikheyev v. Russia* and *Fedotov v. Russia*, documents ongoing violations related to coerced confessions and unfair proceedings.<sup>69</sup> Rebalancing authority between investigators, prosecutors, and judges is essential. Measures such as mandatory audiovisual recording of interrogations, automatic exclusion of coerced confessions, and guaranteed early access to counsel would significantly strengthen fair-trial protections. Improving transparency through publication of anonymised judgments and independent trial monitoring—as recommended by the OSCE—would further enhance accountability.<sup>70</sup>

## Cross-Jurisdictional Recommendations

Across all four jurisdictions, certain universal reforms emerge as critical. Ensuring early and effective access to counsel remains a foundational requirement for preventing miscarriages of justice, consistent with the principles articulated in *Salduz v. Turkey*.<sup>71</sup> Judicial training must be continuously updated to address developments in digital evidence, forensic methods, and international human rights norms. Transparent data systems—covering sentencing, charging, bail decisions, and case outcomes—are essential for maintaining public confidence, as demonstrated in comparative justice studies.<sup>72</sup> Investment in technological reforms will streamline disclosure, enhance data sharing, and improve administrative efficiency across all systems.

## 6.2 CONCLUSION

This comparative study demonstrates that although criminal justice systems differ in structure—adversarial in the UK and USA, inquisitorial in France and Russia—they face

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<sup>68</sup> Ministère de la Justice (France), *Rapport Annuel sur la Justice Pénale* (2022).

<sup>69</sup> *Mikheyev v. Russia*, App. No. 77617/01, Eur. Ct. H.R. (2006); *Fedotov v. Russia*, App. No. 5140/02, Eur. Ct. H.R. (2005).

<sup>70</sup> Organization for Security & Co-operation in Europe (OSCE), *Trial Monitoring Report: Russia* (2020).

<sup>71</sup> *Salduz v. Turkey*, App. No. 36391/02, 2008 Eur. Ct. H.R.

<sup>72</sup> Bureau of Justice Statistics (U.S.), *Federal Justice Statistics* (2023).

converging challenges shaped by modernisation pressures, resource limitations, and evolving criminal behaviours. No system emerges as flawless; each balances competing demands of efficiency, accuracy, rights protection, and institutional independence.

The UK and USA provide robust procedural protections but struggle with backlogs, inequality of defence resources, and expansive prosecutorial authority. France offers detailed judicial oversight yet faces procedural opacity and delays in complex cases. Russia contends with systemic deficiencies stemming from weak judicial independence, limited defence rights, and prosecutorial dominance.

The recommendations outlined above aim to reinforce fairness, transparency, and accountability while respecting each jurisdiction's legal tradition. Ultimately, this research reaffirms that criminal justice reform is an ongoing process. Continuous evaluation, comparative learning, and commitment to international human rights principles are essential to maintain the legitimacy of criminal courts and ensure that justice remains both accessible and equitable.<sup>73</sup>

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<sup>73</sup> ANTOINE GARAPON, *CRIMINAL JUSTICE IN FRANCE* 178–82 (2008).