THE ARCHITECTURE OF PUNITIVE SOVEREIGNTY: A COMPARATIVE ANALYSIS OF CRIMINAL COURT POWERS IN INDIA, USA, UK, FRANCE AND RUSSIA

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ABSTRACT

The article explores the criminal court architecture, limit imposed under statutory, and philosophies powers governing them across global legal systems namely India, United States, United Kingdom, France, and Russia. An in-depth analysis was carried out by comparing the common law tradition based on adversarial mechanisms against the truth-seeking frameworks of civil law based on inquisitorial models, by relaying on judicial power distributed, restricted, and its exercise. The paper explores sentencing thresholds, constitutional review mandates, pre-trial judicial interventions, and the varying operational realities of judicial independence to demonstrate how national history shapes the administration of criminal justice. While the mechanisms of sentencing, pre-trial detention, and judicial inquiry vary substantially, criminal courts universally act as the primary operational frontier of state power. The comparative analysis demonstrates that the architecture of criminal court powers is never merely technical, rather it serves as a direct mirror of a nation's democratic resilience, administrative centralization and commitment to the rule of law.

Keywords: Punitive Sovereignty, Comparative Criminal Law, Judicial Discretion, Sentencing Powers, Separation of Powers, Constitutional Jurisprudence.

1. Introduction

The criminal courtroom represents the most acute spatial intersection between the raw coercive authority of the state and the fundamental liberties of the individual.[1] While a state's sovereignty is conceptually articulated through its constitution and external borders, it is dynamically operationalised through its capacity to punish.[2] This institutional expression of power under punitive sovereignty is not merely an abstract exercise of legal authority; it is an architectural framework constructed and maintained by the specific powers, discretions, and structural boundaries assigned to criminal courts.[3]

As the society structures its criminal judiciary it reveals the true nature of its constitutional settlement.[4] The distribution of penal power reflects the degree to which a state prioritises majoritarian order, bureaucratic efficiency, or counter-majoritarian rights protection.[5] This study provides a comprehensive macro-comparative analysis of criminal court powers across five pivotal jurisdictions that span different legal traditions, historical trajectories, and constitutional geometries: India, the United States of America, the United Kingdom, France, and the Russian Federation.

2. Theoretical Framework: The Sovereignty to Punish

The architecture of punitive sovereignty based on how political philosophy translates into judicial coercion. In classical political theory, the surrender of individual autonomy to a sovereign entity is explicitly conditioned on the state's monopoly over the administration of justice (Locke, 1689).[6] Thomas Hobbes posited in *Leviathan* that without a centralized authority to execute punishments, covenants are "but words".[7] The criminal court is the physical manifestation of this Hobbesian contract, transforming raw sovereign violence into institutionalised, rule-bound retribution.[8]

However, the concentration of this retaliatory power poses an existential threat to liberty,

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[1] Foucault, M. (1975). *Discipline and Punish: The Birth of the Prison*. Éditions Gallimard.
[2] Hobbes, T. (1651). *Leviathan*. Andrew Crooke.
[3] Damaska, M. R. (1986). *The Faces of Justice and State Authority: A Comparative Approach to the Legal Process*. Yale University Press.
[4] Montesquieu, C. de S. (1748). *The Spirit of the Laws*. Barrillot & Fils.
[5] Packer, H. L. (1968). *The Limits of the Criminal Sanction*. Stanford University Press.
[6] Locke, J. (1689). *Two Treatises of Government*. Awnsham Churchill.
[7] Supra 2 Hobbes, T. (1651). *Leviathan*. Andrew Crooke.
[8] Beccaria, C. (1764). *On Crimes and Punishments*.

necessitating structural boundaries. Montesquieu's *The Spirit of the Laws* articulated the foundational premise of the separation of powers, warning that "there is no liberty, if the judiciary power be not separated from the legislative and executive".[9] If the power to judge is joined with the executive, the judge becomes an oppressor. Alexander Hamilton famously echoed this in *Federalist No. 78*, characterizing the judiciary as the "least dangerous branch" because it possesses "no influence over either the sword or the purse," relying instead entirely upon the executive arm for the enforcement of its decrees.[10]

In contrast to the classical frameworks, modern sociological critiques interpret the criminal court not as a passive arbiter, but as an active component of state surveillance and control.[11] Michel Foucault's *Discipline and Punish* exemplifies how the modern states shifted from spectacular displays of monarchical sovereign violence to more insidious, disciplined, and bureaucratic forms of carceral control.[12] The contemporary criminal court functions as the gatekeeper of this carceral network, utilizing technical legal mechanisms such as bail schedules, sentencing guidelines, and evidentiary rules to classify, manage, and subjugate populations under the guise of neutral adjudication.[13] Thus criminal courts balance their dual roles by acting simultaneously as instruments of sovereign penal enforcement and as constitutional shields safeguarding individual liberty from state overreach.[14]

3. Punitive Jurisdiction Model

The India, USA, UK, France and Russia have their own unique structural approaches to the management of punitive sovereignty. The judicial frameworks of the above said countries were shaped based on the historical evolutions, systemic imperatives, and constitutional designs.

4. India: Codified Hierarchy and Adversarial Moderation

4.1 Post-Colonial Constitutionalism and Judicial Activism

The architecture of the Indian criminal judiciary banks on procedural and substantive

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[9] Supra Montesquieu, C. de S. (1748). *The Spirit of the Laws*. Barrillot & Fils.
[10] Hamilton, A., Madison, J., & Jay, J. (1788). *The Federalist Papers*. J. & A. McLean.
[11] Garland, D. (2001). *The Culture of Control: Crime and Social Order in Contemporary Society*. University of Chicago Press.
[12] Supra 1 Foucault, M. (1975). *Discipline and Punish: The Birth of the Prison*. Éditions Gallimard.
[13] Feeley, M. M., & Simon, J. (1992). The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications. *Criminology*, 30(4), 449–474.
[14] Vile, M. J. C. (1967). *Constitutionalism and the Separation of Powers*. Clarendon Press.

foundations, which were historically rooted in the British-era Indian Penal Code of 1860 and the Code of Criminal Procedure that remained deeply punitive and imperial in design, as it was built originally to preserve colonial state security.[15,16] On the other hand, the post-1950 constitutional framework overlaid these mechanisms with a radical, counter-majoritarian mandate.[17] This structural paradigm has been further modernized and restructured through the legislative overhaul enacted via Bharatiya Naya Sanhita (BNS) and Bharatiya Suraksha Sanhita (BNSS) 2023.[18]

Through an expansive reading of Article 21 of the Constitution of India, which guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law, the Supreme Court of India transformed itself into a proactive sentinel [Constitution of India, 1950].[19] In Maneka Gandhi case (1978) the judiciary decreed that criminal procedures must be "right, just, and fair," rather than merely arbitrary statutory commands.[20]

Indian courts wield substantial discretionary power in sentencing, bounded by judicial doctrines rather than rigid legislative codes. For instance, with respect to the application of the death penalty the judicially engineered a restricted approach by evolving the concept of "rarest of rare cases" doctrine in Bachan Singh 1980 case.[21]

However, this expansive constitutional oversight exists alongside a severe structural crisis. Indian criminal courts face systemic backlogs, exceptionally high rates of pre-trial under-trial detention, and specialized anti-terror legislations such as the Unlawful Activities Prevention Act (UAPA) that severely curtail judicial discretion regarding bail, demonstrating the enduring pressure of state survival over individual liberty.[22,23]

4.2 Statutory Framework and Institutional Hierarchy

The powers of the Indian criminal judiciary are strictly institutionalized and stratified under a

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[15] Macaulay, T. B. (1837). *A Penal Code Prepared by the Indian Law Commissioners*.
[16] Singh, U. K. (2019). *Structural Violence and the Criminal Law in India*. Oxford University Press.
[17] Austin, G. (1966). *The Indian Constitution: Cornerstone of a Nation*. Clarendon Press.
[18] Ministry of Law and Justice, Government of India. (2023). *The Bharatiya Nyaya Sanhita, 2023* & *The Bharatiya Nagarik Suraksha Sanhita, 2023*.
[19] Constitution of India, 1950.
[20] Maneka Gandhi v. Union of India, AIR 1978 SC 597.
[21] Bachan Singh v. State of Punjab, (1980) 2 SCC 684.
[22] Law Commission of India. (2017). *Report No. 268: Amendments to Criminal Procedure Code, 1973 Relating to Bail*.
[23] Raghavan, V. (2021]. Under-trials and the Structural Crisis of Indian Jails. *Journal of Indian Legal Studies*, 15(2), 45–72.

comprehensive statutory framework. Historically governed by the Code of Criminal Procedure (CrPC), 1973, and modernized under the Bharatiya Nagarik Suraksha Sanhita (BNSS), the system ties judicial power directly to a rigid hierarchical ladder.

At the base sit the Magistrate Courts. A Judicial Magistrate of the Second Class possesses highly restricted punitive powers, capped at a maximum of one year of imprisonment and statutory fine limits (Section 23(3) BNSS 2023). The Judicial Magistrate of the First Class (and Chief Judicial Magistrate) can sentence individuals up to three and seven years, respectively (Section 29(2) BNSS 2023).

The middle tier consists of the Court of Sessions, presided over by Sessions Judges. These courts possess original jurisdiction over serious offenses (such as homicide and sexual assault) and hold the power to pass any sentence authorized by law, including life imprisonment and capital punishment. However, to prevent arbitrary executions, the law imposes a systemic check: any death sentence passed by a Sessions Court remains inoperative until it is formally reviewed and confirmed by the respective state High Court.

4.3 Inherent and Constitutional Powers

At the apex sit the High Courts and the Supreme Court of India. These are courts of record endowed with plenary constitutional powers. Under Article 226 (High Courts) and Article 32 (Supreme Court) of the Constitution, these courts possess extraordinary writ jurisdiction. They can issue writs of *Habeas Corpus* to compel the state to justify the detention of any citizen, acting as a direct bulwark against executive overreach.

Furthermore, High Courts possess unique "inherent powers" (codified under Section 482 of the CrPC / Section 528 of the BNSS) to pass any order necessary to prevent the abuse of the process of any court or to secure the ends of justice. This allows Indian appellate judges to quash malicious criminal proceedings at the pre-trial stage, a power far more expansive than that enjoyed by lower trial courts.

4.4 Caselaw:

In D.K. Basu (1997) case A PIL was filed addressing rampant custodial violence, deaths, and arbitrary police behaviour in police lockups across India. The Supreme Court issued 11 mandatory guidelines that police must follow during arrest and detention (e.g., right to inform a friend/relative, medical check-ups) to safeguard the right to life under Article 21.[24]

In Sita Soren 2024 case, the state legislator was criminally charged by the CBI for accepting a bribe to vote for a specific candidate during the 2012 Rajya Sabha elections. She claimed blanket criminal immunity under Article 194(2) of the Indian Constitution, which protects speech/votes inside the house. The 7 judge bench unanimously overruled the decades-old *P.V. Narasimha Rao* precedent. The Court held that parliamentary privilege does not shield lawmakers from ordinary criminal corruption or bribery charges, as the crime of bribery crystallizes the moment the illegal gratification is accepted.[25]

5. The United States: Adversarial Fragmentation and Prosecutorial Dominance

The United States represents the quintessential adversarial model, built upon a hyper-fragmented constitutional architecture. The power is bifurcated horizontally through a strict federal separation of powers and vertically through dual sovereignty federalism, which divides criminal jurisdiction between federal courts and fifty distinct state judicial systems (U.S. Constitution, 1787). The American model grounded in the bill of Rights, prioritizes severe checks against state tyranny, notably through the Sixth Amendment right to a trial by an impartial jury (U.S. Constitution, Amend. VI). The Duncan 1968 case[26] affirmed that the jury functions as an essential historical defence against compliant, biased, or eccentric judges and overzealous prosecutors.

5.1 Constitutional Exclusionary Powers and Plea Bargaining

US judges possess robust powers of judicial review. They can evaluate whether police actions violated constitutional protections, such as the Fourth Amendment's prohibition against unreasonable searches. Under the judicially created Exclusionary Rule, a US judge has the power to suppress legally incriminating evidence if it was obtained via unconstitutional means, effectively crippling the prosecution's case.

Despite these robust constitutional protections, the actual exercise of punitive sovereignty in the United States has shifted drastically away from the bench.[27] While, over the past several

[24] D.K. Basu v. State of West Bengal (1997) 1 SCC 416
[25] Sita Soren v. Union of India 2024 INSC 161
[26] Duncan v. Louisiana, 391 U.S. 145 (1968).
[27]Stuntz, W. J. (2011]. *The Collapse of American Criminal Justice*. Harvard University Press.

decades, the codification of strict statutory mandatory minimums and rigid sentencing guidelines has significantly curbed judicial discretion.[28]

Concurrently, the systemic evolution of plea bargaining has fundamentally altered the courtroom dynamic. Over 90 percent of criminal convictions in the U.S. are settled through negotiated pleas, effectively shifting the adjudicative and sentencing power from neutral judges to institutional prosecutors.[29] The contemporary American criminal judge frequently operates as an administrator confirming pre-arranged executive agreements, rather than an independent evaluator of appropriate penal sanctions.[30]

5.2 Caselaw:

Ernesto Miranda was arrested for kidnapping and rape. During two hours of interrogation, police obtained a signed confession without informing him of his right to remain silent or his right to counsel. Established the "Miranda Rights." The U.S. Supreme Court ruled that statements made during custodial interrogation are inadmissible unless the suspect is actively informed of their 5th and 6th Amendment rights.[31]

The former U.S. President Trump was criminally indicted on multiple federal counts alleging a conspiracy to overturn the 2020 presidential election results. The defence moved to dismiss the indictment based on absolute presidential immunity. The Supreme Court ruling 6-3 established that a former President is entitled to absolute immunity from criminal prosecution for actions within their core constitutional authority, presumptive immunity for all official acts, and zero immunity for purely unofficial acts.[32]

6. The United Kingdom: Statutory Bifurcation and Parliamentary Limits

6.1 Summary vs. Indictable Jurisdictions

The criminal courts of England and Wales operate on a binary division of labour based entirely on the severity of the offense. Minor infractions ("summary offenses") are funneled directly to

[28]Tonry, M. (1996]. *Sentencing Matters*. Oxford University Press.
[29] Langbein, J. H. (1979). Understanding the Short History of Plea Bargaining. *Law & Society Review*, 13(2), 261–272.
[30] Alschuler, A. W. (1979). Plea Bargaining and Its History. *Law & Society Review*, 13(2), 211–241.
[31] Miranda v. Arizona 384 U.S. 436 (1966)
[32] Trump v. United States 603 U.S. 593 (2024)

the Magistrates' Courts. These courts are unique because they are often presided over by lay magistrates (justices of the peace who are not formally trained lawyers) advised by a legally qualified clerk. The sentencing power of a Magistrates' Court is strictly capped, generally limited to a maximum of 6 months imprisonment for a single offense.

Serious offenses ("indictable offenses") are transferred to the Crown Court. The Crown Court is a single entity that sits at various centers across the country, featuring a professional judge and a 12-person jury. The sentencing powers of the Crown Court are statutory but functionally unlimited, extending up to mandatory life sentences for offenses like murder.

6.2 The United Kingdom: Common Law Pragmatism and Parliamentary Sovereignty

The United Kingdom's criminal courts operate within a unique uncodified constitutional framework historically anchored to the principle of Parliamentary Sovereignty.[33] In this common law tradition, courts possess inherent powers developed through centuries of judicial precedent rather than a singular constitutional charter.[34] While the senior judiciary historically enjoyed vast autonomy in defining offenses and determining sentences.[35]

However, this traditional framework underwent a fundamental transformation with the enactment of the Human Rights Act 1998, which incorporated the European Convention on Human Rights (ECHR) into domestic law [Human Rights Act, 1998].[36] Under Section 3 of the Act, UK courts are required to interpret criminal legislation compatibly with Convention rights, such as the Article 6 right to a fair trial. Where compatibility is impossible, superior courts can issue a declaration of incompatibility under Section 4.[37] This was demonstrated in case *R v A (No 2)* in 2001, were the dynamics forced a major shift in how the judiciary evaluates criminal procedures and rules of evidence.[38]

Nonetheless, because the UK lacks a supreme constitutional text to strike down acts of Parliament, the ultimate boundaries of punitive sovereignty remain in legislative hands.[39] The steady rise of statutory sentencing councils and mandatory minimum regimes for repeat

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[33] Dicey, A. V. (1885). *Introduction to the Study of the Law of the Constitution*. Macmillan.
[34] Ashworth, A., & Redmayne, M. (2010). *The Criminal Process*. Oxford University Press.
[35] Cross, R. (1971). *The English Sentencing System*. Butterworths.
[36] United Kingdom Parliament. (1998). *Human Rights Act 1998*. HMSO.
[37] Clayton, R., & Tomlinson, H. (2009). *The Law of Human Rights*. Oxford University Press.
[38] R v A (No 2), (2001) UKHL 25.
[39] Goldsworthy, J. (2010). *Parliamentary Sovereignty: Contemporary Debates*. Cambridge University Press.

offenses underscores Parliament's enduring capacity to cabin and direct judicial penal power.[40]

6.3 Caselaw:

In Woolmington 1935 case,[41] Reginald Woolmington shot and killed his wife. He claimed it was a tragic accident intended only to scare her into returning to him. The trial judge incorrectly told the jury the defense had to prove it was an accident. Established the "golden thread" of English criminal law: The burden of proof always rests on the prosecution to prove guilt beyond a reasonable doubt. The defense is never required to prove innocence.

In Merticariu case 2024, the Romania sought the extradition of a individual convicted of burglary in his absence. The individual did not know about the original trial and had not deliberately boycotted it. Under the UK Extradition Act 2003, extradition requires a guaranteed right to a fresh trial upon return. The UK Supreme Court ruled that a requested person's entitlement to a criminal retrial or review upon extradition must be absolute and unconditional, rather than being contingent on a foreign court's discretionary findings regarding their past absence.[42]

7. France: The Inquisitorial Paradigm and Substantive Truth Seeking

7.1 The Investigative Hegemony of the *Juge d'Instruction*

France's civil law system rejects the passive arbiter model of common law jurisdictions. Instead, it concentrates immense judicial power in the pre-trial phase through a specialized judicial officer: the Investigating Magistrate (*Juge d'instruction*).

For serious crimes (*crimes*), the procurement of a *juge d'instruction* is mandatory. This magistrate does not sit on a bench during trials; instead, they act as an independent, neutral investigator tasked with uncovering the "substantive truth"—both incriminating evidence (*à charge*) and exculpatory evidence (*à décharge*).

The powers of the *juge d'instruction* are vast and intrusive:

- They can command national police forces to execute search warrants.

[40] Ashworth, A. (2015). *Sentencing and Criminal Justice*. Cambridge University Press.
[41] Woolmington v. DPP [1935] UKHL 1
[42] Merticariu v. Judecatoria Arad, Romania (2024) UKSC 10

- They can authorize telephonic wiretaps and intercept communications.
- They can compel witnesses to attend depositions under oath.
- They can issue orders for pre-trial detention, placing a suspect in prison before formal charges are finalized.

7.2 The Trial Hierarchy: *Cour d'Assises* to *Tribunal de Police*

Once an investigation concludes, cases are sent to specific courts based on a tripartite categorization of offenses:

1. ***Cour d'Assises (Felonies):*** Tries serious crimes. It features an unusual mixed panel consisting of three professional judges and a citizen jury. They sit together, deliberate together, and vote jointly on both guilt and sentence. It possesses the power to issue life imprisonment.

2. ***Tribunal Correctionnel (Misdemeanors):*** Tries offenses punishable by up to 10 years of imprisonment. This court sits without a jury, meaning professional judges hold total adjudicative and sentencing power.

3. ***Tribunal de Police (Infractions):*** Handled by a single judge, limited strictly to monetary fines and minor administrative penalties.

7.3 France: The Inquisitorial System and Civil Law Rationalism

France offers a sharp structural contrast to the Anglo-American common law world, operating on a civil law inquisitorial model rooted in the Code de Procédure Pénale 1808/1958. In this architecture, the criminal court is not a passive referee managing a contest between two opposing parties; it is an active, state-directed instrument designed to discover substantive truth.[43] The centerpiece of this model is the *juge d'instruction* (investigating magistrate), an independent judicial officer tasked with gathering both exculpatory and inculpatory evidence during the pre-trial phase (*l'instruction*).[44]

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[43] Frase, R. S. (1990). Comparative Criminal Justice as a Guide to American Law Reform: How Do the French Do It, and Why? *California Law Review*, 78(3), 539–683.

[44] Hodgson, J. (2005). *French Criminal Justice: A Comparative Account of the Investigation and Prosecution of*

When a serious crime (*crime*) reaches the *Cour d'Assises*, the trial is led by the presiding judge, who interrogates witnesses, experts, and the accused directly.[45] Rather than applying hyper-technical common-law exclusionary rules of evidence, French judges and jurors evaluate evidence under the standard of *intime conviction* (inner deep conviction)—a holistic, subjective assessment of whether the truth has been established beyond reasonable doubt.[46]

Punitive sovereignty in France is highly institutionalized and guided by comprehensive codification, minimizing the highly individualized judicial discrepancies often seen in common law systems. However, it also binds the judiciary closely to the administrative machinery of the state, occasionally blurring the lines between executive crime-control policies and independent judicial evaluation.[47]

7.4 Caselaw:

In Affaire Omar Raddad case,[48] A wealthy widow was murdered, and a message written in her blood pointed to her Moroccan gardener ("Omar m'a tuer"). Omar was convicted despite a flawed judicial investigation, missing forensic timelines, and a lack of DNA evidence. Highlighted the intense criticisms of the inquisitorial system's *juge d'instruction* (investigating magistrate). It forced major structural reforms in French criminal procedure regarding the absolute presumption of innocence and led to new modern laws allowing the reopening of closed criminal trials when fresh DNA profiling clashes with earlier convictions.

In SkyECC 2025 case,[49] French intelligence breached encrypted cross-border cryptophones, harvesting mass data used to prosecute thousands of transnational organized crime syndicates across Europe. The defendants challenged the lack of domestic judicial cross-border notification and an inability to access evidence source codes. The Court of Cassation referred the case to the Court of Justice of the European Union (CJEU) to determine if utilizing mass-encrypted digital surveillance data without providing an effective local legal remedy or

Crime in France. Hart Publishing.

[45] Pradel, J. (2014). *Procédure pénale*. Cujas.

[46] Field, S. (2006). *Intime Conviction*, Fact-Finding and Reform in French Criminal Justice. *Inquisitorial Processes and Human Rights Frameworks*, 23–45.

[47] Vogler, R. (2005). *A World History of Prospection: The Origins of the Inquisitorial and Adversarial Systems of Criminal Justice*. Ashgate.

[4848] Affaire Omar Raddad Cour de Cassation (1994 / 2002 revision)

[49] The SkyECC / EncroChat Mass Encryption Referrals, French Court of Cassation, Decision n° 24-84.262 (Sept 2025)

sovereign notification violates European fair trial principles.

8. Russia: Centralized Authority, Low Acquittals, and Post-Soviet Adaptation

8.1 Structural Centralization and the *Prokuratura*

The criminal justice system of the Russian Federation is a civil law model that retains structural elements of its Soviet predecessor. The judiciary is highly centralized, moving from local Magistrate Courts (handling minor offenses) up to District Courts, Regional Courts, and the Supreme Court of the Russian Federation.

In practice, the operational power of Russian criminal courts exists in a delicate balance with the Prokuratura (the State Prosecution). Historically, Russian criminal courts have displayed a strong institutional deference to the state's investigative files. This phenomenon is reflected in a statistically remarkable trial reality: the acquittal rate in Russian criminal courts consistently hovers at less than 1%. Once a case is formally brought to trial by the prosecutor, a conviction is nearly certain.

8.2 The Rejection of Acquittals: Power to Return Cases

A unique procedural power held by Russian judges is the ability to avoid issuing an acquittal when the prosecution's evidence is weak or structurally flawed. Under Article 237 of the Russian Code of Criminal Procedure, a judge has the power to return the criminal case to the prosecutor to remedy defects or gather further evidence. In a common law adversarial system like India or the US, insufficient evidence results in an immediate acquittal due to double jeopardy protections. In Russia, this power to return cases allows the state a secondary opportunity to reformulate its charges, highlighting the state-centric nature of the judicial process.

8.3 Sentencing Constraints and the Death Penalty Moratorium

Russian judges possess the power to award long-term imprisonment and life sentences. However, their power regarding the ultimate penalty is legally frozen. Although the death penalty remains codified in the Russian Criminal Code, Russia instituted a judicial moratorium on capital punishment in 1996 as a condition for entering the Council of Europe. In 2009, the Constitutional Court of Russia ruled that no court could legally impose a death sentence, functionally stripping trial courts of their capital sentencing power despite the text of the criminal code.

8.4 The Russian Federation: Post-Socialist Hybridity and State-Centric Adjudication

The criminal court system of the Russian Federation represents a complex, post-socialist hybrid model. While the 1993 Constitution of the Russian Federation and the Criminal Procedure Code (UPK RF) nominally introduced democratic civil law principles—including the presumption of innocence, judicial independence, and jury trials for severe offenses—the practical execution of judicial power remains deeply influenced by Soviet and imperial legacies.[50,51]

The structural architecture of the Russian criminal court is marked by a pronounced accusatorial bias (*obvinitelny uklon*).[52] Statistically, acquittal rates in Russian courts of general jurisdiction regularly fall below one percent, reflecting an institutional environment where the judiciary operates in close alignment with the state procuracy (*Prokuratura*) and investigative organs.[53]

While Russian judges technically possess sole authority over sentencing within statutory limits, their administrative vulnerability to court presidents who control internal career advancement, bonuses, and disciplinary actions exposes the bench to systemic internal and external executive pressures.[54] Punitive sovereignty in Russia is thus characterized by a hyper-centralized model, where the criminal court serves primarily as an instrument of state preservation, administrative discipline, and regime security rather than an independent counterweight to executive authority.[55]

8.5 Caselaw:

In the case of Kudeshkina (2009),[56] Judge Olga Kudeshkina was publicly dismissed from her

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[50] Constitution of the Russian Federation, 1993.
[51] Solomon, P. H. (2008). The Politics of Reconstruction of Courts in Post-Soviet Russia. *Europe-Asia Studies*, 60(2), 195–217.
[52] Pastukhov, I. (2002). *Obvinitelny Uklon v Rossiyskom Pravosudii* [Accusatorial Bias in Russian Justice]. Jurist.
[53] Ledeneva, A. V. (2011). Telephone Justice in Russia. *Post-Soviet Affairs*, 27(4), 320–348.
[54] Hendley, K. (2017). *Everyday Law in Russia*. Cornell University Press.
[55] Trochev, A. (2008). *Judging Russia: Constitutional Court in Russian Politics 1990–2006*. Cambridge University Press.
[56] Case of Kudeshkina v. Russia ECtHR Application no. 29492/05 (2009)

judicial post in Russia after campaigning against corruption and highlighting systemic manipulation where state prosecutors pressured judges to deliver politically motivated convictions. Exposed institutional vulnerability in the Russian criminal system. The European Court of Human Rights ruled that her dismissal violated freedom of expression and spotlighted the severe lack of judicial independence from state prosecution in Russian criminal courts.

The application of modern extremism laws in Meta / Navalny Network cases ongoing 2024–2026.[57] The Russian criminal courts have routinely weaponized updated "extremism" and "state treason" statutes to criminally sentence political dissidents and journalists based entirely on encrypted messages, social media posts, and digitized data seized by state intelligence agencies. Continues a heavy institutional lean on the state's inquisitorial mechanisms. Modern applications validate broad executive authority over digital forensics and cyber-surveillance, effectively executing convictions with near-total state judicial compliance and minimal defense access to digital evidence source data.

9. Comparative Synthesis and Functional Analysis

Fig 1 highlights the classification of criminal court powers in India, USA, UK, France and Russia. While Table 1 illustrates the criminal court functioning.

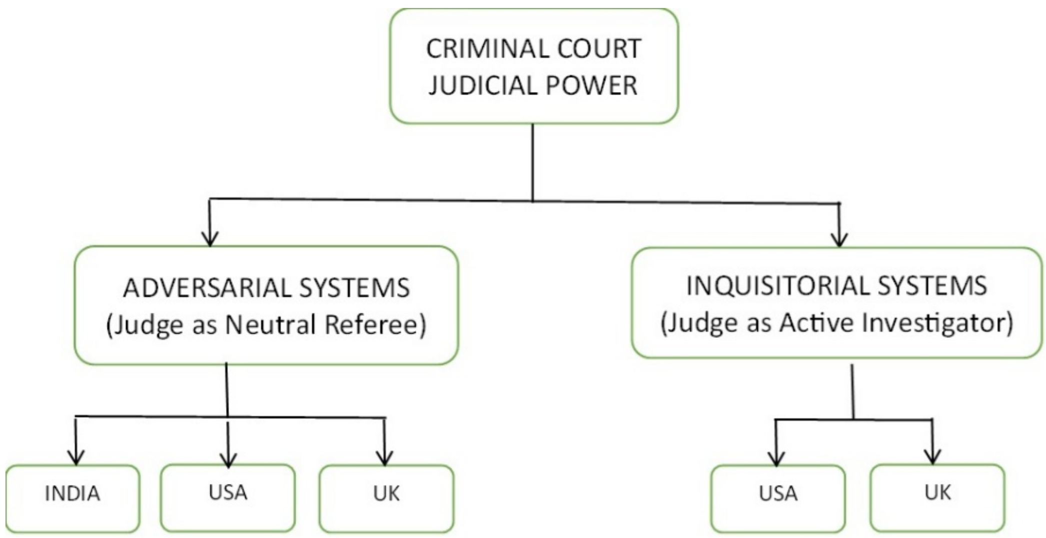

Fig 1. Criminal Court Powers

[57] State v. Meta / Navalny Network ongoing 2024–2026

Table 1. Outlines the core points of distinction between the countries in criminal court powers

Jurisdiction	**Primary Source of Law**	**Trial Fact-Finder**	**Maximum Sentencing Power**	**Judicial Power to Strike Laws**
India	Codified Statutes (BNSS)	Professional Judge	Unlimited (Death Penalty requires HC approval)	**Yes** (Full Constitutional Review)
United States	Constitution & Common Law	Citizen Jury	Unlimited (Capital punishment varies by state)	**Yes** (Robust Judicial Review)
United Kingdom	Common Law & Acts of Parliament	Citizen Jury (Crown Court)	Unlimited (Life Imprisonment)	**No** (Limited to Declaration of Incompatibility)
France	Napoleonic Penal Code	Mixed Panel (Judges + Jury in *Assises*)	Life Imprisonment	**No** (Vested separate from criminal courts in *Conseil Constitutionnel*)
Russia	Criminal Code of the Russian Federation	Professional Judge (Juries are rare/restricted)	Life Imprisonment (Death Penalty under Moratorium)	**No** (Vested separate from criminal courts in *Constitutional Court*)

10. Conclusion

The comparative analysis of criminal court powers reveals that a court's authority cannot be measured solely by the severity of the sentences it can impose. True judicial power lies in the structural autonomy a judge possesses relative to the state and the legislature. In the US and India, criminal courts wield extensive constitutional weapons, allowing them to suppress state evidence or invalidate criminal statutes entirely. In the UK, judicial power is deep but bound by the supremacy of Parliament. In France, the power is front-loaded, transforming the judge into an active investigator seeking objective truth rather than an umpire watching a legal duel. In Russia, the judiciary functions with high centralization, prioritizing institutional cohesion and state security over systemic checks and balances. Ultimately, these divergent systems demonstrate that while the definition of crime remains localized, the exercise of judicial power remains a balancing act between the security of the collective and the human rights of the accused.

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6. Locke, J. (1689). *Two Treatises of Government*. Awnsham Churchill.
7. Supra 2 Hobbes, T. (1651). *Leviathan*. Andrew Crooke.
8. Beccaria, C. (1764). *On Crimes and Punishments*.
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