



## Judiciary and Law Adjudication in Matured Democracies: Perspectives on USA and France

Muhammad Aminu Kwasau<sup>1</sup>; Raziqa Muhammad Shafiu<sup>2</sup>; Salma Abdurrahman Maina<sup>3</sup>; Mariyah Muhammad Shafiu<sup>4</sup>

<sup>1,3</sup>Department of Political Science, Kaduna State University, Kaduna.

<sup>2</sup>National Board for Arabic & Islamic Studies, Kaduna State, Nigeria.

<sup>4</sup>Department of Islamic Studies, Federal College of Education, Zaria, Kaduna State, Nigeria.

Corresponding author's email: [raziqashafiu@ymail.com](mailto:raziqashafiu@ymail.com), [makwasau32@gmail.com](mailto:makwasau32@gmail.com)

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### Abstract

*Even when all other safeguards fail, a judiciary of unquestionable integrity is the cornerstone institution necessary for guaranteeing adherence to democracy and the rule of law. It protects the public from any violations of their legal rights and freedoms. This observation applies to both global analyses of the judicial system and rule of law process in America and France, in particular. The judiciary and legal adjudication process were viewed and examined as a great bastion of the rule of law throughout the United States of America and France as one of the great countries that are characterized as mature democracies in this paper, which relied on the qualitative method of data collection. The study discovered that, in contrast to France, which has a centralized legal system, the United States has two distinct judicial systems (federal and state).*

## I. Introduction

The judiciary is a crucial government entity that is primarily responsible for enforcing the law by explaining and interpreting its genuine intent; this is its rightful and distinctive domain. The judicial systems of all nations are maintained by public trust in the independence of the courts, the moral character of its judges, and the fairness and effectiveness of its procedures. It varies greatly from country to country how well people understand the function of the judiciary in democratic States, particularly that judges must administer the law impartially and fairly without taking into account external

social or political forces. The cornerstone institution necessary for preserving adherence to democracy and the rule of law is an unquestionably honest judiciary ([Suteu, 2021](#)).

The judiciary stands as a bulwark for the people against any violations of their legal rights and freedoms, even when all other safeguards are ineffective. The global judiciary is seen as one major bulwark of the rule of law throughout the world, and these views are applicable both locally – in the context of each country State – and worldwide. Thus, maintaining the integrity of the global judiciary requires a great deal of effort, expertise, and experience ([Linzer & Staton, 2015](#)).

The Judicial Group on Strengthening Judicial Integrity (The Judicial Integrity Group) has been working toward achieving this goal since 2000. It began as a loose association of Chief Justices and Superior Court Judges from across the globe who pooled their knowledge and abilities with a feeling of commitment to this admirable goal. Since then, the Group's efforts and successes have advanced to the point where they have had a substantial influence on the world's judicial landscape. A preparatory meeting of a group of Chief Justices and senior justices was held in Vienna in April 2000 in conjunction with the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, at the request of the United Nations Centre for International Crime Prevention and within the framework of the Global Programmed against Corruption ([De Maximy, 2022](#); [Shafiu & Salleh, 2021](#)).

The goal of the gathering was to address the issue brought about by evidence that many people were losing faith in their legal systems due to a perception that they were corrupt or otherwise biased in many nations across all continents. Surveys on service performance and public opinion, as well as commissions of inquiry set up by governments, have produced this material. Although several remedies and reform strategies have been explored, the issue remained. This was supposed to be a fresh strategy. Judges were asked to organize their own affairs for the first time under the auspices of the UN; to create a notion of judicial accountability that would complement the idea of judicial independence and, as a result, increase public trust in the Rule of Law.

It was initially agreed to restrict the exercise to the common law legal system in recognition of the existence of other legal systems across the world. As a result, the first participants came from nine nations in Asia, Africa, and the Pacific, all of which had a wide range of legal systems but had a similar judicial history (The Code of Judicial Conduct was established by the Washington State Supreme Court in April 2000) ([Chavez, 2008](#); [Fombad, 2007](#); [Charothers, 2010](#)). In order to comprehend the function of the judiciary in a democratic system of government and how the judicial systems in America and France operate, this article compares and analyzes the judiciary and the legal adjudication process in both countries.

## II. Conceptual Clarification

**Judiciary:** According to a lay man definition judiciary can be viewed as the system in place to settle a conflict, but judiciary goes beyond that, generally judiciary is the part of any country's government that is responsible for its legal system, The judiciaries are in charge of interpreting and applying the laws of a nation in specific situations. They also have the authority to declare legislation unconstitutional ([Ouriemmi, 2023](#)).

**Law Adjudication:** In a simple way law adjudication is an interpretive process through which rights are created and enforced. To put it differently, it refers to the legal procedure for settling a disagreement or making a decision in a matter. The process of resolving a legal dispute through the court or justice system as well as a final legal verdict or judgment is known as law adjudication. When a claim is brought, courts analyze what were the rights and wrongs of the parties' actions when they occurred in order to determine the parties' rights at that specific moment ([Cooter & Ginsburg, 1996](#)). To put it differently, it refers to the legal procedure for settling a disagreement or making a decision in a matter. The process of resolving a legal dispute through the court or justice system as well as a final legal verdict or judgment is known as law adjudication. When a claim is brought, courts analyze what were the rights and wrongs of the parties' actions when they occurred in order to determine the parties' rights at that specific moment.

**Matured Democracy:** is a form of government based on the principles of freedom and equality, in which power is held either directly by the people or based on the existence of well-structured and well-functioning institutions, as well as a body of standards and rules on the will of society as a whole, fully aware of its rights and elected responsibilities ([Chachalia, 2019](#)). In other words, Matured Democracy is based on the notion that everyone has the right to participate in the management of public affairs; as a result, it requires the existence of well-representative institutions at all levels, particularly a Parliament that is comprised of representatives from every sector of society and has the authority and resources to represent the will of the people by enacting laws and monitoring government policy. Matured Democracy is a broadly recognized notion and objective that is founded on universally acknowledged cultural, political, social, and economic values. Consequently, it is a basic right of citizenship that must be used in the benefit of the state and in an atmosphere of freedom, equality, transparency, and responsibility ([Ames et al., 2020](#); Shafiu & Salleh, 2021).

## III. Literature Review

The judicial branch of government, which was established in 1787 as a result of the separation of powers, is responsible for the administration of justice at all levels of government, from the U.S. Supreme Court to regional justices of the peace and magistrates. Insofar as the Judiciary Authority depends on the presence of institutions for responsibility and control over the power of the majority with regard to fundamental rights in order to interfere in public affairs, democracy therefore becomes a precondition

for judicialization ([Diaz & Navarro, 2020](#)). Judicial review is used to evaluate how much the court can defend democracy from systemic failure as an institutional buffer, sometimes on issues involving basic rights but more frequently on issues involving the use of governmental power ([Ouriemmi, 2023](#)).

The Judicial Group on Strengthening Judicial Integrity Throughout the World (also known as the Judicial Integrity Group) met on April 15 and 16, 2000, at the United Nations Office in Vienna. Chief Justices Latifur Rahman of Bangladesh, Y. Bhaskar Rao of India's Karnataka State, Justice Govind Bahadur Shrestha of Nepal, Chief Justice M.L. Uwais of Nigeria, and Deputy President Pius Langa of the South African Constitutional Court also attended. The Judicial Integrity Group made two decisions at the meeting. First, it was decided that, in accordance with the concept of accountability, the national judiciary should actively contribute to enhancing judicial integrity by implementing systemic changes that are within its purview and purview of the judiciary (A revised version of the Bangalore the seat of the International Court of Justice - on 25 and 26 November 2002).

Furthermore, the 1868-ratified 14th Amendment to the Constitution states that "No state shall make or enforce any law... abridging the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

#### **A. American Judicial System**

There are two distinct and separate judicial systems in the United States of America (State judicial system and Federal judicial system). According to Article III of the Constitution, judges of the U.S. Court of International Trade, courts of appeals, district courts, and the Supreme Court are appointed and, in theory, may hold their positions for life. The United States president appoints and nominates Article III judges, who then need to be approved by the Senate. The political procedure for the selection or confirmation of judges has no bearing on the judiciary. While state judges preside over the majority of cases in the US, they are not affiliated with the federal court system. State court judges, on the other hand, are a member of state court structures created by state governments. State courts, like federal judges, must uphold the U.S. Constitution and have the authority to strike down state legislation that they deem to be unconstitutional. In accordance with state constitutions and laws, there are many ways to choose state judges. In the majority of states, judges are either chosen by the general public in a general election or are first appointed by the state governor and then put up for reelection in the general election (Shafiu & Salleh, 2021).

The highest court in the country is the U.S. Supreme Court. The Chief Justice of the United States sits on the Court together with eight Associate Justices. The whole

nine-member court convenes en banc to hear and decide matters. Cases that have been assigned to the Supreme Court and a select few carefully chosen discretionary cases make up the court's workload. In a few limited circumstances, such as state-by-state border disputes, the Supreme Court will serve as the court of first instance or exercise required appellate review under the Constitution and federal law. When at least four Supreme Court justices agree to hear a case, the other cases on the docket are decided on an elective basis.

The U.S. attorney general oversees the Justice Department at the federal level, although federal prosecuting attorneys who work in 94 court districts and are chosen by the president and approved by the U.S. Senate handle trial work. U.S. attorneys handle civil law issues, defending the United States against lawsuits or contract disputes in addition to prosecuting offenders in federal criminal cases. The attorney general, who usually handles civil law problems, is the highest-ranking legal representative at the state level. One of the about 2,700 locally chosen prosecutors, also known as district attorneys, state's attorneys, or county attorneys, who each represent a county or other local geographic area, enforces state criminal law. These prosecutors are elected in the majority of states, often for a four-year tenure ([De Maximy, 2022](#); [Chachalia, 2019](#); Shafiu & Salleh, 2021).

## **B. France Judicial System**

A presidential-parliamentary hybrid form of governance is used in the unitary state of France. The civil law tradition, which has its roots in Roman law, is the one that underlies the French legal system. During the 19th century or in 1804 under Napoleon I, France took the lead in the codification of civil law. The formation of the law in a large portion of Latin America and Africa, as well as in many other European countries, has been affected by French legal codes. Both judicial courts (those that deal with criminal and civil law) and administrative courts are different sorts of courts in France. Administrative courts apply public law (tribunaux administratifs).

The Supreme Court of Appeals is the judiciary's highest court (Cour de cassation). The legal system of France is founded on codified laws and is derived from Roman law. Even while subordinate courts are not bound by any decisions made by higher courts, judges nevertheless have a duty to interpret the law, and such rulings can have some impact on lower courts. In France, the final execution was carried out in 1978. After then, it was declared illegal in October 1981. The National Assembly and Senate of the Parliament decided to change the French Constitution in February 2007 to clearly forbid the death penalty or make it unlawful.

According to the constitutional article "No one shall be condemned to death," France is the 17th country in the world with a constitution that prohibits the death penalty. The judicial branch is separate from the legislative and executive branches. There are several types of courts organized into two primary branches: an administrative branch and a judicial branch known as private law, which applies



to private persons and private organizations. The guiding principles of government and public institutions are defined by public law. Public law courts normally apply this statute. Investigations in the most serious and complicated offenses are overseen by specialized judges known as investigating judges d'instruction in the French legal system. The procedure is referred to as the information judiciary or judicial investigation ([Fombad, 2007](#)).

### C. Courts Systems of United States of America

With a few notable exceptions, the federal courts have the authority to hear a variety of cases. The same federal courts review matters involving individuals, businesses, and governmental bodies, as well as appeals from decisions of administrative agencies, questions of law and equity, disputes between public and private law, and litigation involving both. There are no separate constitutional courts since judges and all federal courts have the jurisdiction to decide whether or not federal laws and other governmental actions are constitutional in the context of the cases they hear.

- a) **Trial Court:** The United States district courts are the primary trial courts in the federal court system, and they have the authority to hear almost all forms of federal disputes. There are 94 federal judicial districts, in addition to one or more in each state, the District of Columbia, Puerto Rico, and the overseas territories. In each of the federal judicial jurisdictions, a district court includes a United States bankruptcy court. With the exception of criminal charges, the bankruptcy court has jurisdiction over almost all aspects of insolvency cases across the nation. Once a case is filed in the bankruptcy court, related cases that are pending in other federal and state courts may be moved there. The bankruptcy judges are in charge of the bankruptcy courts' operational management.
- b) **Court of Appeals:** Each of the 12 regional circuits, which are composed of the 94 judicial districts, has a United States court of appeals. A court of appeals handles appeals from district courts located within its circuit as well as certain federal administrative bodies. The Court of Appeals for the Federal Circuit also has global authority to hear appeals in complicated cases, including those involving patent laws, judgments rendered by the Court of International Trade, and judgments rendered by the Court of Federal Claims. There is an appeals procedure in every federal case in which a district court renders a conclusive decision. Three judges make up each panel in the courts of appeals often.
- c) **Supreme Court:** The United States Supreme Court is the highest court in the federal judicial system. Along with eight other justices, it is chaired by the Chief Justice of the United States. To hear and determine every case, the court's nine justices meet together. For the Supreme Court to use its almost

totally discretionary jurisdiction to consider a case, it requires the agreement of at least four justices. (In a few unusual cases, including disputes over state boundaries, the Supreme Court acts as either the court of first instance or as the body responsible for necessary appellate review.) In general, the Court only agrees to hear cases when the courts of appeals are evenly divided, when there is a difference of opinion among the courts of appeals, or when there is a crucial constitutional question or problem of federal law that requires clarification.

#### D. Courts System of France

The civil courts handle disputes over property, inheritance, and other private matters involving individuals; they do not, however, impose penalties. Criminal courts make decisions in circumstances when people have committed crimes.

- a) **First degree of jurisdiction:** The Tribunaux d'instance district courts have authority over civil proceedings. They hear cases concerning personal property valued at under 10,000 euros as well as those that are solely within their purview. The Police Court Tribunal de Police, its criminal division, solely utilizes sanctions to address crimes in five different categories. Cases involving minor crimes (classes one through four) and some civil proceedings worth less than 4,000 euros may be heard by a "lay" judge or a professional judge. Judges supervise over trials while seating alone, both in civil and criminal cases.
- b) **Court of cassation (Court of Appeals):** The highest level of jurisdiction is the Court of Cassation. It is the French legal system's Supreme Court. The Hall of Justice in Paris is home to the Court of Last Resort. The Tribunal of Cassation, which was founded in 1790, was succeeded by it. Instead of making factual determinations, the Court of Cassation reviews whether the laws have been appropriately implemented by the subordinate courts in civil and criminal proceedings. The appeals court is never in session. Although subordinate courts are not bound by its rulings, they do provide for some coherence in how the law is applied. Since 1991, the Court of Cassation has offered guidance to other nations on cutting-edge and complex legal issues.
- c) **Public prosecution:** Criminal proceedings are handled by the public prosecutor at the Criminal court, Assize court, and Appellate Assize court. In addition, he explores alternative punishments that are appropriate for the accused's situation. It is defined by its relationships with governing bodies for the purpose of carrying out public prosecution policy, overseeing judicial police activities, and conducting criminal investigations and trials. The prosecutorial discretion tenet is the foundation for the significance of the Public Prosecutor position in France.

#### **IV. Relationship between the State Court and the Federal Court**

Despite being present in every state, federal courts are not the only venue available to plaintiffs. In fact, the separate state court systems established in each of the 50 states serve as the primary forum for the resolution of the great majority of legal issues in American courts. Similar to the federal judiciary, most state court systems consist of a state supreme court, intermediate appellate courts, and trial courts with wide authority. They could also have specialized lower-level courts, including county courts, municipal courts, small claims courts, or justices of the peace, to deal with minor disputes.

- a. Compared to federal courts, state courts have jurisdiction over a wider variety of matters. The majority of criminal cases, contract disputes, traffic infractions, and personal injury claims, for instance, fall under the jurisdiction of state courts, as do practically all divorce and child custody matters, probate and inheritance matters, real estate matters, and juvenile problems.
- b. In some situations, a case that was improperly filed in federal court may be “remanded” to a state court with the power to hear the case. On the other hand, if certain conditions are satisfied, a state court matter may be “removed” to a federal court.
- c. Courts at the federal and state levels must accord each other’s decisions “full faith and credit.” However, a federal act supersedes any state law that conflicts with it under the Supremacy Clause of the Constitution.

#### **V. Rule of Law in United States of America and France**

It is crucial to distinguish between “rule by law,” which maintains that the government is above the law and that the law applies to all members of society, and “rule of law,” which maintains that everyone in society is subject to the law, including the government, when talking about the relationship between the rule of law and democracy. The understanding that establishing democracy and the rule of law may be convergent and mutually reinforcing processes whenever the rule of law is defined in broad, ends-based terms rather than in narrow, formal, and exclusively procedural terms is another important aspect of the rule of law-democracy nexus.

Fundamentally, respect for the law is necessary for constitutional restraints on authority, a crucial aspect of democracy. There is a significant connection when justice and democratic governance are viewed as substantive outcomes of the rule of law. This contrast is frequently described as a conflict between “thin” and “thick” notions of the rule of law. But generally speaking, a focus on “thin” definitions emphasizes the processes by which regulations are created and administered, whereas “thick” definitions strive to defend rights and position it within a larger human development discourse ([Suteu, 2021](#)).



The rule of law is the same in France; it guarantees that all society rights and laws are properly safeguarded and supported centrally under a certain government. As a member of the European Union, France has an obligation to actively support and protect the state's laws and rights. The safety of civil and political rights and liberties, as well as the equality and dignity of all individuals, are all protected by the rule of law, as upheld by an independent court ([Conrad, 2023](#); [McGaughey et al., 2022](#); [Torre & Bourdin, 2022](#)).

## VI. Differences between United States of America and France on Judicial System

In the modern world, there is a wide range of illegal behavior and how the judicial system functions. The article lists the differences between the legal systems of France and the United States, noting that while most have equivalent approaches to each other's legal systems and some are particular to their own nation, there are parallels for both.

- i. In France, policing is a serious matter with several laws and procedures that are very different from those in the US. It is generally acknowledged that the divided police model used in the United States focuses on enforcing law and order on citizens via means of government, who are effectively police personnel. The focal point of this process is the divided police model. In France, the national government has placed a strong focus on bolstering its control over and management of the police ([Linzer & Staton, 2015](#); [Wallace & Martin-Ortega, 2020](#); [International Law Commission, 2022](#)).
- ii. Their respective judicial systems are another difference between these two nations. The legal survey is not practiced by the French. Anyone who is a defendant in court is protected by the laws and rights of the United States and the Supreme Court. In France, this kind of legal test is not taught ([Linzer & Staton, 2015](#)). The Constitutional Board in France is made up of nine individuals who are appointed for a longer period of time. They are responsible for all parliamentary legislation and political choices. The tenure of their Supreme Court is more flexible than the term of the Constitutional Court.
- iii. The procedure of becoming a judge in France is really intriguing. Law school is a step up from just getting a college degree. You enroll in Bordeaux's National School of Judiciary after finishing law school ([Linzer & Staton, 2015](#)). After getting accepted and graduating from Bordeaux's Judiciary, they are eligible to become judges. In contrast to the American system, which requires experience and development before becoming a judge, the French system allows for the early appointment of young, inexperienced persons. This gives society more confidence in the notion of becoming a judge so that they will not question their government.

- iv. The two nations' approaches to criminal justice also differ significantly. The Code of Criminal Procedure, which controls how a suspect's case is approached and handled, is followed in France. The constitution, which gives all states with a clearer knowledge and well-organized structure, must be observed by everything in the United States. In the American legal system, equal rights are highly valued. All defendants and suspects are entitled to equal protection under the law. It is harder to prosecute someone in France since there is no legal system there. Some people could be found guilty based just on their point of view.
- v. The Napoleonic code served as the basis for the French legal system, whereas common law served as the foundation for the American system ([Born & Rutledge, 2022](#); [Schmidt, 2022](#); [Hartley, 2022](#)).

## VII. Similarities of between United States of America and France on Judicial System

- i. There are lower courts and a higher court that acts as a last-resort tribunal under both systems. The highest court in the French system does not analyze facts and evidence, much like how the U.S. Supreme Court does. Jurors are only utilized in the most serious cases, including murder, in France, unlike the American system.
- ii. In France, there is a court system for both criminal and civil issues as well as one for public problems. Cases may be appealed. The highest court then evaluates whether the lesser courts appropriately implemented the law, if that is the case, then they go on. These higher courts do not review the facts or the evidence, unlike the U.S. Supreme Court.
- iii. Both the United States and France have democratic systems of government, which implies that the people have political power since they have the right to vote for their representatives and laws. As a result, there are some parallels and some differences between their governments' organizational systems. Similar to France, the president of the United States is elected to a four-year term as the head of the executive arm of the government ([Crema & Solum, 2022](#); [Torre & Bourdin, 2022](#); [Auer, 2022](#)).

## VIII. Results and Discussion

The federal legal system in the United States of America consists of two distinct and separate judicial systems: the state judicial system. According to Article III of the Constitution, judges of the U.S. Court of International Trade, courts of appeals, district courts, and the Supreme Court are appointed and, in theory, may hold their positions

for life. The USA therefore adheres to real federalism, which is shown in its court system, where each state has an independent, autonomous, and equal judicial system. The federal and state courts in the USA are separate from one another. Only a small number of constitutionally required issues are decided by federal courts. There are three of them. the Supreme Court, the Circuit Court, and the District Court (court of first instance) (Highest court).

No two states in the USA have exactly the same court systems because each one is “allowed to organize its courts as it deems proper.” State courts are typically common law courts that use their individual state laws and processes to determine issues. They are set up in line with their state’s constitution, state legislation, and authoritative state court precedent, and when appropriate, they also use federal law. In America, a single judicial officer, commonly referred to as a judge, exercises original jurisdiction by preside over contentious criminal or civil actions that end in trials. However, most cases are resolved before trial and lower court rulings may be appealed by a panel of a state court of appeals. The state’s highest court, which administers the court system in cases involving questions of federal law, also serves as the highest court for appeals. The state’s highest court’s final ruling (including refusals to hear final appeals) may be appealed to the United States Supreme Court (which also has the discretion to refuse to hear them).

In France, things are different because Similar to other democracies, the French government often proposes laws, which are centralized to each state and must be approved by the National Assembly and the Senate, the two chambers of the French Parliament. They take effect on the day they are published in the Official Journal, enacted by Parliament, and signed into law by the President. Unlike the United States, France has a centralized judicial system. However, there are two types of courts: judicial courts, which decide on both civil and criminal cases, and administrative courts. The Supreme Court of Appeals, Tribunaux Dr. Grande, and Tribunaux d’Instance are the three highest courts of appeal (the lowest court)

## **IX. Conclusion**

In contrast to France, where the legal system is centralized to every state, the American judicial system is decentralized and autonomous among the state and federal levels. French prison administration is very different from American prison administration. They can be divided into three groups in France: institutions, groups, and prisons. They think this is a better approach even if it is not really separating prisoners. It is categorized as least, medium, high, and maximum in the US. That is, every prisoner belongs in a certain jail, regardless of the seriousness of the crime. Finally, in order to ensure that the rule of law is guaranteed, both America and France are taken into consideration by the hierarchy of courts.

Therefore, the paper concludes that, United States of America's judicial system is decentralized and independent among the states and at federal level, unlike in France where judicial system is centralized to all states. The way jails are run in France is vastly different from how they are run in America. In France for instance, they are classified into three categories: facilities, organizations, and penitentiaries while in the United States, it is classified as least, medium, high, and maximum. The paper also recommends that, good leadership that is responsive and responsible, a well-informed civil society, independence of the judiciary and respect for rule of law will guarantee fundamental Human Rights of citizens as well as promotes the integrity of law adjudication process in both United States and France.

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