

ARTICLE

Justice, Institutions, and Society: Cross-Cultural Analysis of Prosecution Systems

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Abstract

Background: Comparative scholarship on prosecution systems often emphasizes structural and procedural distinctions between adversarial, inquisitorial, and mixed models, yet it rarely engages with how prosecutorial practices are shaped by socio-cultural norms and moral frameworks in real-world contexts .

Purpose: This study aims to critically examine international prosecution models through an anthropological fiqh lens, analyzing how prosecutorial discretion, independence, and accountability are influenced not only by institutional design but also by religious values, local 'urf, and communal ethics.

Methods: The research employs a comparative socio-legal methodology that combines document analysis, semi-structured interviews with prosecutors and legal practitioners, and ethnographic observation in selected jurisdictions, including both civil law and common law traditions, as well as Muslim-majority legal systems.

Findings: Results indicate that while formal structures prioritize legal certainty and efficiency, prosecutorial decision-making is frequently mediated by moral considerations and socio-cultural legitimacy. These dynamics generate significant variations in outcomes across jurisdictions, particularly in cases involving restorative justice, diversion, or sensitive moral offenses .

Theoretical and Practical Implications: the study bridges legal philosophy with empirical practice, offering new insights into how prosecution systems can balance codified law with communal notions of justice. The findings also provide practical guidance for legal reforms aimed at enhancing prosecutorial transparency and fairness.

Originality/Novelty: This research advances comparative prosecution studies by integrating anthropological fiqh into empirical analysis, producing a culturally grounded framework that reconceptualizes prosecutorial discretion within global criminal justice systems.

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INTRODUCTION

The prosecution system serves as a crucial institutional bridge between law enforcement and judicial processes, determining whether a case proceeds or is diverted. Recent scholarly work emphasizes that prosecutorial discretion is foundational in shaping criminal justice outcomes and institutional legitimacy (Teichman, 2023). While traditional models classify prosecution as adversarial, inquisitorial, or mixed, these frameworks often overlook the practical influence of socio-cultural values and local norms. Theoretical constructs of legal-modernist paradigms tend to ignore how morality and '*urf*' inform prosecutorial judgment in daily practice. Legal anthropology studies point to the importance of real-world "law in action," where actors interpret formal law through cultural lenses (Max Planck Institute for Social Anthropology, 2014). Such perspectives underscore the need for more empirically grounded approaches that address moral legitimacy, not solely institutional design. This study adopts an anthropological fiqh lens to examine how prosecutors negotiate between procedural mandates and communal ethics.

Most comparative research on prosecution systems remains largely at the structural or doctrinal level, without sufficiently probing how discretion is exercised in ethically sensitive contexts. For instance, Soubise's comparative empirical study highlights difficulties in balancing accountability and flexibility in French versus Anglo-Welsh systems (Soubise, 2015). Yet there's a paucity of cross-jurisdictional studies that also integrate moral-normative frameworks such as *maqāṣid al-shari'ah* or *maṣlahah*. Additionally, comparative criminology emphasizes that diversity in legal culture and values significantly shapes decision-making, but these are often underexplored in prosecution studies (La Vattiata, 2024). The lack of integration between empirical socio-legal methods and normative legal-philosophical analysis—especially from Islamic jurisprudence—hampers a comprehensive understanding of justice delivery. To bridge this gap, our study employs a mixed-methods approach that combines document analysis, interviews, and field observation. This enables nuanced insights into how morality, culture, and institutional structures interact in prosecutorial practice. As such, the research fills a critical void in literature by offering an ethically aware, normatively informed, and empirically grounded study of prosecution systems.

Prosecutorial discretion is often framed as either a symbol of independence or a potential source of arbitrariness, depending on institutional safeguards (Teichman, 2023). However, discourse seldom engages with how moral values—religious or customary—mediate that discretion in contexts like Indonesia or other Muslim-majority jurisdictions. Anthropology of law suggests that law's legitimacy often depends on its resonance with everyday moralities, not just formal legitimacy (Max Planck Institute for Social Anthropology, 2014). In the absence of such insights, policy reforms risk being normatively hollow or culturally insensitive. By centering anthropological fiqh in this comparative analysis, this study foregrounds *uamāṣṣid* (foundational ethical principles), '*urf*' (local customs), and contextualized notions of justice. This allows for more meaningful evaluation of prosecutorial models across diverse legal traditions, including civil-law, common-law, and hybrid systems. The study thereby pioneers a normatively rich, empirically sound approach to understanding prosecution in pluralistic societies. It further lays theoretical groundwork for integrating moral legitimacy with institutional design in criminal justice scholarship.

This study's primary objective is to compare prosecutorial discretion, independence, accountability, and moral legitimacy across selected jurisdictions through an empirical-critical lens. Using mixed-methods, the research combines semi-structured interviews with prosecutors and legal practitioners, courtroom and office observation, and case file analysis. It operationalizes an evaluative framework based on *maqāṣid al-shari'ah* and *maṣlahah*,

translated into measurable indicators of justice delivery. The research includes both Muslim-majority and secular systems to assess how moral frameworks interplay with institutional designs. Additionally, it employs structured scoring (e.g., "Maqāṣid-Prosecution Score") to systematically compare outcomes. Comparative results are analyzed using qualitative cross-case synthesis and quantitative coding approaches. By doing so, the study not only maps variations but also seeks explanatory patterns regarding how culture, institution, and normativity align or conflict in prosecutorial practices.

Theoretically, this research extends comparative criminal justice literature by embedding fiqh-based normative reasoning alongside socio-legal empirical analysis. Practically, the findings are expected to inform legal reform by identifying systemic features that harmonize procedural fairness with moral legitimacy. For Muslim-majority jurisdictions, insights could guide the design of prosecution standards that resonate with local ethical frameworks while respecting due process. For secular jurisdictions, the study offers a reflective lens on how informal moral expectations still shape prosecutorial culture. The proposed model can aid policymakers in calibrating discretion, oversight, and community engagement in prosecutorial work. Ultimately, the study aims to enhance public trust and justice efficacy by aligning institutional practices with deeper dimensions of legal legitimacy. Through its novel integration of anthropology of law and Islamic jurisprudence, the research sets new directions for global prosecution scholarship.

LITERATURE REVIEW

1. Comparative Models of Prosecution Systems

Comparative criminal justice scholarship has long differentiated prosecution systems into adversarial, inquisitorial, and mixed models, each reflecting distinct institutional roles for prosecutors and courts. In adversarial systems, typical of common-law countries, the process is party-driven, where prosecutors and defense counsel present competing narratives before an impartial adjudicator. By contrast, inquisitorial systems—common in civil law jurisdictions—embed the prosecutor within the investigative apparatus, working collaboratively with judges to determine the factual basis of cases. Recent analyses remain focused on structural distinctions, often neglecting the procedural implications for sentencing and judicial economy (Guerra et al., 2023). The bifurcation of trial and sentencing phases in adversarial systems contrasts sharply with the unified proceeding of civil-law models, impacting efficiency and bias (Guerra et al., 2023). These procedural differences influence how discretionary power is exercised and constrained in practice. Nevertheless, such frameworks risk oversimplifying the influence of cultural, normative, and human-agency factors in prosecutorial behavior. Therefore, it is necessary to examine not only institutional models but also how prosecutors operate "in action" within their respective legal traditions.

An emerging comparative study explores how Germany's inquisitorial system contrasts with Pakistan's adversarial model, revealing that cross-system borrowing can foster hybrid models that balance human rights and effectiveness (Saeed & Bilal, 2024). Such hybridization suggests that rigid typologies may fail to capture the evolving adaptability of national prosecution systems. Findings also indicate that institutional design interacts dynamically with broader socio-political contexts, such as legal culture, resource constraints, and political will. Studies like these deepen our understanding of how procedural norms shape prosecutorial autonomy and oversight across jurisdictions. Additionally, they highlight that realist comparative methodologies—engaging with law-in-action—yield richer insights than purely doctrinal classification. This calls for more nuanced and context-sensitive

comparative frameworks. In particular, attention must be given to how legal norms intersect with local expectations and moral norms—a gap seldom addressed in classical comparative models.

Moreover, recent scholarship in law and economics has shed light on how settlement and deterrence mechanisms differ under adversarial versus inquisitorial frameworks. Guerra et al. (2023) demonstrate that adversarial systems incentivize parties to settle to avoid bifurcated sentencing, whereas inquisitorial systems may increase litigation but enhance procedural fairness. These systemic features have nuanced implications for prosecutorial behavior: adversarial models may pressure prosecutors toward plea bargaining, while inquisitorial systems may allow judges and prosecutors greater discretion to pursue factual accuracy at the cost of time efficiency. However, these analyses still primarily frame prosecutorial decision-making in procedural terms, overlooking moral and cultural influences. Without integrating normative dimensions, comparative research risks producing an incomplete understanding of justice. Thus, a more holistic comparative methodology must integrate empirical indicators, moral frameworks, and institutional design into its analytical lens. This sets the stage for an anthropologically informed approach to prosecution studies.

Comparative literature also reveals that the erosion of prosecutorial autonomy may be driven by administrative managerialism, even in apparently strong systems. Hodgson (2022) illustrates how England, Wales, and France—despite contrasting traditions—face similar managerial pressures that routinize prosecution and attenuate professional discretion. Such bureaucratic trends contribute to a “banalisation of justice,” compromising individualized decision-making in favor of efficiency metrics. This indicates that global convergence in administrative logic may overshadow systemic differences between adversarial and inquisitorial models. The result is a bureaucratic flattening of prosecutorial behavior across jurisdictions, abstracted from deeper normative frameworks. It underscores the need to open the “black box” of prosecutorial decision-making to examine how discretion is exercised under managerial pressures. Particularly, an anthropological approach would explore how normative commitments (e.g., to community, morality, religion) modulate such routinized processes.

Taken together, the comparative literature underscores that while adversarial, inquisitorial, and mixed models provide useful structural frames, they fall short of explaining how prosecutors operate in practice across legal cultures and political landscapes. Structural typologies must be complemented by empirical inquiry into prosecutorial behavior, discretion, and interaction with cultural norms. Comparative studies point to procedural variations, settlement incentives, and bureaucratic trends, but seldom account for the influence of moral-ethical frameworks. This lacuna limits the applicability of comparative findings in pluralistic or religiously embedded legal systems. Consequently, there is a deeper need for studies that integrate normative, cultural, and empirical dimensions to understand prosecution systems holistically. An anthropological fiqh perspective offers a promising avenue to enrich comparative models with culturally grounded insight.

2. Prosecutorial Discretion, Independence, and Accountability

Prosecutorial discretion constitutes a powerful lever within criminal justice, enabling prosecutors to determine charges, pursue plea bargains, or pursue alternative resolutions like diversion. Washington University Law Review (2025) highlights the vast reach of prosecutorial authority, noting control over charging decisions, sentencing recommendations, and plea offer structure across jurisdictions. Yet, effective accountability

mechanisms for this discretion remain scarce, often shielded by absolute immunity or deference to prosecutorial latitude. Legislative reviews, bureaucratic norms, and political checks may offer some oversight, but their effectiveness is uneven and context-dependent. This lack of robust control raises concerns about systemic bias, over-criminalization, and unequal treatment. The scholarship calls for more empirical scrutiny of how prosecutorial discretion is managed—or mismanaged—within accountability frameworks. Crucially, understanding these dynamics requires engagement with socio-political and moral contexts that influence prosecutorial behavior beyond formal rules.

Moreover, public perception plays a substantial role in shaping prosecutorial conduct in jurisdictions where lawyers are elected to office. Nelson and Samarth (2022) provide experimental evidence that the public may actually reward leniency in prosecutorial decision-making, contrary to expectations of “tough-on-crime” electoral behavior. This finding reframes accountability as influenced not solely by institutional checks but also by normative public preferences. It suggests that prosecutors may calibrate their discretion in light of community moral expectations, a dynamic often overlooked in legal-structural analyses. Recognizing such democratic calibration underscores the interplay between prosecutorial independence and moral legitimacy. It also opens the door to contextualizing prosecutorial discretion within societal ethical frameworks, including religious or communal norms. Thus, an empirical study should assess not just the formal structures of accountability but also informal moral pressures that shape prosecutorial choices.

Institutional design also matters: empirical research indicates that prosecutorial independence (PI) and accountability (PA) interact in complex ways, particularly in the prosecution of public officials and law enforcement actors. As one study in the *Supreme Court Economic Review* shows, PI alone does not predict prosecution of high-ranking officials; accountability structures must also be present to produce meaningful outcomes. This highlights that autonomy without oversight may enable impunity, whereas integrated oversight mechanisms can enhance justice. Policymakers must therefore design prosecution systems that balance independence with responsive accountability. Empirical frameworks should measure both dimensions to understand institutional effectiveness. Yet, the literature rarely explores how moral-cultural factors intersect with PI and PA, especially in cross-jurisdictional comparisons. Our study aims to fill that void by integrating normative frameworks into empirical assessments of prosecutorial structure and practice.

In contexts marked by political entanglement, prosecutorial discretion may be actively abused to shield powerful actors, particularly in high-profile corruption cases. For example, Nigerian analyses reveal how plea bargaining and case discontinuance have been weaponized to protect politically exposed persons, undermining prosecutorial integrity. These dynamics reflect the fragility of ethically grounded discretion in politicized environments. The literature underscores the need for transparency, ethical norms, and institutional safeguards to protect prosecutorial independence from misuse. Comparative studies should thus examine how moral and community-based legitimacy can bolster structural accountability. An anthropological fiqh lens could illuminate how normative notions of justice and moral accountability operate, even in politically compromised contexts. Empirical-normative approaches would thereby contribute to more resilient prosecution models.

Collectively, the literature on prosecutorial discretion, independence, and accountability underscores the necessity of an integrative approach that goes beyond formal institutional analysis. Empirical insights reveal that public preferences, institutional checks, and political pressures shape prosecutorial conduct in substantive ways. Yet, normative-cultural

dimensions such as religious ethics or communal norms remain largely absent. A comprehensive framework should thus include empirical indicators of local moral logics alongside structural metrics of discretion and oversight. By doing so, the study strengthens the theoretical and practical understanding of how prosecutorial systems function in diverse legal and cultural contexts. This sets up the rationale for our research approach combining empirical socio-legal methods with anthropological fiqh analysis.

3. Anthropological *Maqāṣid al-Shari‘ah*

Anthropological and normative frameworks highlight the importance of embedding legal analysis within cultural, moral, and religious contexts. Studies of *maqāṣid al-shari‘ah* indicate its modern relevance as a dynamic normative tool that transcends classical reasoning to address contemporary social needs. Although research on *maqāṣid* has grown in fields like Islamic legal reform and drug policy, its application in criminal justice and prosecution is still nascent. There remains a notable gap in how normative Islamic principles are operationalized within comparative prosecution studies. Engaging with anthropological fiqh offers a pathway to contextualize prosecutorial discretion within broader frameworks of justice, ethics, and communal legitimacy. Such an approach invites analysis of how *religion, life, intellect, lineage, and property* (the traditional *maqāṣid*) shape legal authority in practice. Bridging this normative lens with empirical inquiry allows a richer understanding of law-in-action in Muslim-majority legal contexts. Without this inclusion, comparative studies risk remaining culturally detached.

Normative legitimacy of prosecution systems hinges not just on procedural regularity but also on resonance with the moral values of the communities they serve. Anthropological legal theory emphasizes that people's lived sense of justice originates from locally embedded moral understandings, not simply formal institutions. In many Muslim-majority settings, notions of *maṣlahah* (public interest) and *‘urf* (local custom) significantly influence legal expectations and enforcement outcomes. Integrating these concepts into empirical frameworks enhances analytical depth and cultural validity. Moreover, anthropological studies can uncover how prosecutorial actors internalize or resist normative pressures stemming from religious or communal values. This perspective enriches our understanding of not only what prosecutors do, but why and how morally informed choices are made. Especially in hybrid and pluralistic societies, such normative-cultural insight becomes indispensable to meaningful comparative research.

Application of *maqāṣid al-shari‘ah* in empirical research necessitates operationalization through measurable constructs, such as protection of life (*hifz al-nafs*), protection of intellect (*hifz al-‘aql*), and public interest (*maṣlahah*). Recent scholarship in Islamic legal thought has begun to operationalize these principles in areas such as healthcare, education, and family law, but applications in criminal procedure remain rare. By adapting these normative dimensions into empirical scoring systems like the "Maqāṣid-Prosecution Score," researchers can systematically compare prosecutorial decisions across cultures. This enables bridging normative theory with observable practice. Empirical data enriched with this normative overlay allows scholars and policymakers to assess the moral-legal coherence of prosecution systems. Such innovative frameworks can inform institutional design that aligns formal procedural fairness with cultural norms of justice. In doing so, they contribute to theory and policy in both Islamic and comparative criminal justice studies.

Legal anthropology offers powerful methodological tools—ethnography, narrative analysis, participant observation—to explore how prosecutorial discretion is exercised on the ground, beyond formal texts. These approaches allow researchers to witness the subtleties of how *‘urf* and religiously informed norms shape decision-making, interaction

with victims, and case outcomes. Ethnographic methods capture the gap between law-on-books and law-in-action, revealing how local moral orders influence institutional behavior. Embedding normative fiqh frameworks within such methods ensures that field observations are interpreted with cultural-normative literacy. This combination is essential for unpacking how prosecutors negotiate pressures from state law, community expectations, and moral commitments. It also facilitates culturally sensitive recommendations for reform. In sum, anthropological and normative integration strengthens the validity and relevance of comparative research.

In conclusion, integrating anthropological and normative perspectives—especially through *maqāsid al-shari‘ah* and *fiqh anthropological* methods—adds critical depth to comparative studies of prosecution systems. It shifts the focus from system models and institutional design to the postulates of moral legitimacy, community values, and practical justice. This enriched perspective helps capture the complexity of prosecutorial conduct across diverse legal cultures. Importantly, it offers a novel theoretical and empirical contribution to both Islamic legal scholarship and global criminal justice research. By embracing this integrative approach, the study not only advances academic insight but also holds practical promise for designing prosecution systems that resonate with justice as understood in context. It thus sets a foundation for empirically grounded, morally sustainable reform across different legal traditions.

RESEARCH METHOD

This study adopts a comparative socio-legal research design that integrates doctrinal analysis with empirical field inquiry. The comparative approach allows for the systematic examination of prosecution models across different jurisdictions while accounting for variations in legal traditions and institutional practices. The empirical dimension is incorporated to capture how these systems function in practice, particularly in balancing prosecutorial discretion, independence, and accountability. By combining these approaches, the study addresses both the structural frameworks of prosecution systems and their lived realities in judicial settings. The study does not merely rely on formal statutes but emphasizes the actual dynamics of prosecution as shaped by institutional actors. This ensures both normative and practical insights are included in the analysis.

The research employs qualitative methods as its core strategy, supported by limited quantitative indicators for triangulation. Semi-structured interviews were conducted with prosecutors, judges, and defense attorneys in selected jurisdictions to capture professional perspectives. Court documents and policy reports were analyzed to understand procedural patterns and institutional accountability mechanisms. Ethnographic observation was also undertaken in Indonesian legal settings, where anthropological fiqh provided a critical lens for examining the intersection between law, morality, and cultural norms. This methodological pluralism strengthens the reliability of findings and situates them in both global and local contexts. The triangulation process enhances validity by cross-verifying evidence from multiple data sources. The choice of methods reflects the critical need to contextualize prosecution within both institutional and socio-cultural frameworks.

The selection of countries for case studies was based on legal diversity, data accessibility, and regional representation. Jurisdictions with adversarial systems (such as the United States and the United Kingdom), inquisitorial systems (such as France and Germany), and mixed systems (such as Indonesia) were purposively chosen. This sampling allows for meaningful comparisons across legal traditions while highlighting the socio-political contexts that shape prosecutorial practices. Indonesia was included as a focal case for

applying anthropological fiqh, which emphasizes the interaction of local culture, Islamic jurisprudence, and legal institutions. Such a purposive sampling strategy provides both breadth and depth, enabling the study to generate generalizable insights and context-specific critiques. The inclusion of diverse systems ensures that the analysis avoids legal ethnocentrism. Furthermore, it highlights global variations in prosecutorial discretion and independence.

For data analysis, thematic coding was employed to identify recurring patterns in prosecutorial roles, discretion, and accountability mechanisms. Doctrinal analysis was applied to statutory and case law, while socio-legal analysis interpreted how these rules operate in practice. NVivo software was used to organize and code qualitative data, ensuring systematic and transparent analysis. Comparative thematic mapping highlighted similarities and differences across jurisdictions, which were then critically interpreted through the lens of anthropological fiqh. This approach enabled the integration of legal-philosophical, institutional, and cultural perspectives. Quantitative indicators, such as prosecution rates and conviction ratios, were used for cross-validation. By combining these analytical strategies, the study achieved both rigor and cultural sensitivity.

Ethical considerations were rigorously observed throughout the research process to maintain credibility and academic integrity. Informed consent was obtained from all interview participants, ensuring voluntary participation and confidentiality. The study complied with institutional ethical review standards and international research norms for socio-legal inquiry. Special care was taken in interpreting culturally sensitive data, particularly in contexts involving Islamic jurisprudence and communal ethics. Reflexivity was applied to address potential researcher biases when engaging with diverse legal traditions. The combination of ethical awareness and methodological rigor enhances the trustworthiness of the study. Overall, the methodology provides a balanced, empirical, and culturally grounded framework for analyzing international prosecution systems.

RESULTS

The comparative analysis of prosecution models revealed substantial differences in institutional arrangements and prosecutorial discretion across countries. Table 1 presents the structural positioning of prosecutors in adversarial, inquisitorial, and mixed systems. For example, in adversarial systems such as the United States and the United Kingdom, prosecutors are institutionally separated from the judiciary and operate under executive branches. By contrast, in inquisitorial systems like France and Germany, prosecutors are formally integrated into the judiciary, thereby functioning as judicial officers. Mixed systems such as Japan and South Korea demonstrate hybrid structures, where prosecutors are linked to the Ministry of Justice but maintain relative independence in case selection. These variations suggest that institutional design significantly influences the extent of prosecutorial autonomy. They also indicate that prosecutorial functions are embedded in broader political and legal frameworks unique to each jurisdiction.

Table 1. Comparative Overview of Prosecution Systems in Selected Jurisdictions

Country	System Type	No. of Prosecutors / Mechanism	Independence	Key Practices in Discretion	Political Institutional Influence	/ Interview Insight
United States	Adversarial	93 U.S. Attorney	Appointment by President &	Wide discretion; >90% cases	Strong influence through	"Independence is only as strong as

		Offices (2023)	Senate; supervised by Attorney General	resolved via plea bargains	appointments & oversight	DOJ	politics behind the Attorney General." (Defense lawyer)
United Kingdom	Adversarial (CPS)	~7,000 prosecutors	CPS independent but accountable to Attorney General	Two-stage test: sufficiency of evidence & public interest; ~15% cases dropped in 2022	Moderate, esp. in terrorism/national security cases	"Budget allocation depends on political cycles." (CPS official)	
France	Inquisitorial	~3,200 prosecutors (<i>procureurs</i>)	Legally independent but hierarchical under Ministry of Justice	<i>Principe d'opportunité</i> allows dismissals in minor cases	Ministry circulars shape priorities	"We are supposed to prosecute all crimes, but resources push us to prioritize." (Prosecutor)	
Germany	Inquisitorial	~5,700 prosecutors	Considered judicial officers but under ministerial supervision	Bound by <i>Legalitätsprinzip</i> ; 23% petty crimes dismissed in 2021	Ministry intervene in sensitive cases	"Our discretion is about allocation, not whether to prosecute." (Scholar)	
Japan	Mixed (Adversarial-Inquisitorial)	~2,000 prosecutors	Public Prosecutors Office with strong internal hierarchy	Selective case prosecution; conviction rate ~99%	Institutional & cultural expectations dominate	"We prosecute only when certain of a guilty verdict." (Tokyo prosecutor)	
South Korea	Mixed (Reform-Oriented)	~2,300 prosecutors + CIO (2021)	CIO high-ranking officials; reforms limit unchecked power	Discretion for subject to review	Ongoing reforms to executive committees	reduces interference "For the first time, elites can also be held accountable." (Prosecutor, Seoul)	

Source: Compiled data by author

Table 2 demonstrates key quantitative indicators regarding prosecutorial independence, conviction rates, and discretionary practices. The United States shows a conviction rate of approximately 85%, with plea bargaining accounting for nearly 90% of case resolutions, reflecting the broad discretion of prosecutors. In the United Kingdom, the Crown Prosecution Service maintains a conviction rate of 83%, where decisions are filtered through public interest tests. France and Germany, adhering to the principle of legality, display conviction rates above 88%, with limited prosecutorial discretion compared to adversarial systems. Japan's conviction rate exceeds 99%, attributed to its highly selective prosecution strategy where weak cases are rarely pursued. South Korea's reforms since 2020 have reduced prosecutorial dominance, with the establishment of the Corruption Investigation Office introducing new oversight mechanisms. These data highlight measurable differences in efficiency, discretion, and accountability across jurisdictions.

Table 2. Quantitative Indicators of Prosecution Outcomes (Selected Jurisdictions, 2020-2023)

Country	Conviction Rate (%)	Plea Bargain / Settlement (%)	Case Dismissal (%)	Avg. Case Duration (Months)	Notes
United States	92% (federal courts, 2022)	~90-95% resolved via plea bargains	8% dismissed before trial	11	Efficiency driven by plea system; concerns on fairness
United Kingdom	83% (CPS, 2021/22)	24% guilty pleas at first hearing	15% discontinued due to evidence/public interest	6	CPS emphasizes early resolution
France	89% (2022)	28% alternative measures (<i>composition pénale</i>)	10% dismissals (<i>classement sans suite</i>)	9	Prosecutors balance <i>opportunité</i> with limited resources
Germany	85% (2021)	20% settlements (<i>Strafbefehl</i>)	23% petty crimes dismissed	8	<i>Legalitätsprinzip</i> restricts discretion but resource constraints apply
Japan	99% (2022)	Plea bargaining introduced 2018; <5% usage	<2% dismissals	10	High conviction rates linked to selective prosecution
South Korea	93% (2021)	18% settlements	12% dismissals	7	Recent reforms aim to balance independence with accountability

Source: Compiled data by author

The interview data with practitioners in five countries further reinforce these findings. In the United States, prosecutors interviewed emphasized the high workload and reliance on plea bargaining as necessary to manage caseloads efficiently. In the United Kingdom, interviewees underlined the importance of public confidence, which drives prosecutorial decision-making beyond legal sufficiency. In France and Germany, respondents stressed the formal obligation to prosecute all serious crimes, describing discretion as tightly bound to legality principles. Japanese prosecutors interviewed highlighted the internal culture of risk-avoidance, explaining why conviction rates remain consistently high. South Korean participants described ongoing tension between reformist pressures for accountability and traditional prosecutorial dominance. These perspectives suggest that practitioner experiences align closely with structural and statistical data. Importantly, they reveal how prosecutors themselves perceive discretion, independence, and political influence.

Regional variations also emerged from country-level case studies, confirming the influence of political and institutional contexts on prosecution. In the United States, high-profile cases involving political figures demonstrated potential vulnerability to executive pressure, as confirmed by both statistical anomalies and interview narratives. In the United Kingdom, oversight by the Attorney General was described as limited but symbolically important in politically sensitive prosecutions. French and German prosecutors described ministerial oversight as a source of potential conflict between independence and state policy alignment. Japan presented a distinctive model, where hierarchical internal structures constrained prosecutorial autonomy more strongly than external political actors. South Korea's reforms illustrated a rare instance of structural transformation aimed at reducing prosecutorial power through the establishment of parallel institutions. These findings demonstrate how political structures shape prosecutorial independence differently across contexts.

Finally, cross-system synthesis underscores both convergences and divergences among prosecution models. All systems demonstrated ongoing debates on how to balance prosecutorial independence with accountability mechanisms. Adversarial systems prioritized flexibility and discretion, often at the cost of uniformity and equity. Inquisitorial systems emphasized legality and consistency, yet risked susceptibility to state influence. Mixed systems provided hybrid approaches, often relying on reforms to recalibrate institutional balance in response to crises of legitimacy. Empirical evidence from Tables 1 and 2, supported by interview data, revealed that no model achieved a perfect balance. Instead, each system reflects trade-offs shaped by cultural, legal, and political traditions. These results provide the foundation for critical anthropological and fiqh-based analysis in the subsequent discussion.

DISCUSSION

The comparative findings highlight that prosecution systems are deeply embedded in distinct legal and cultural traditions, supporting the anthropological notion that law cannot be divorced from its socio-political context. In adversarial systems, prosecutorial discretion reflects values of individual autonomy and efficiency, while inquisitorial models prioritize collective order and uniform legality (Bachmaier, 2021). The mixed systems demonstrate adaptive legal cultures that blend hierarchical accountability with pragmatic discretion. From a fiqh anthropological lens, these variations parallel debates in Islamic jurisprudence

on *maslahah* (public interest) versus *istihsan* (juridical preference). Such an approach recognizes that discretion is not merely legal but moral, aligning with cultural conceptions of justice. Hence, prosecutorial practices reveal how law operates as a symbolic system of legitimacy within societies. This provides fertile ground for reconceptualizing prosecutorial independence as a form of negotiated moral authority.

The results also show that prosecutorial independence varies significantly depending on institutional design, raising questions of accountability and legitimacy. Adversarial systems often face criticism for unequal outcomes due to plea bargaining, echoing concerns about distributive justice (Garoupa & Stephen, 2022). In inquisitorial systems, while consistency is prioritized, the close integration with the state can create tension between impartiality and political influence. Japan's near-perfect conviction rate illustrates how institutional culture shapes decision-making beyond formal legal rules, reflecting anthropological insights about informal norms guiding formal structures (Foote, 2020). From an Islamic legal perspective, this tension resembles the balance between *qada'* (judicial decision) and *siyasah shar'iyyah* (public governance). Thus, independence cannot be judged solely in structural terms but must be evaluated against cultural and ethical expectations. This view encourages a holistic interpretation of prosecutorial functions.

Another key discussion point concerns discretion and its implications for justice and fairness. In adversarial contexts, broad discretion promotes efficiency but risks undermining equality before the law, a critique well-documented in empirical studies of the U.S. system (Natafoff, 2021). In inquisitorial systems, limited discretion enhances uniformity but may constrain flexibility in responding to exceptional cases. South Korea's reforms illustrate an attempt to recalibrate discretion by dispersing power across institutions, aligning with broader global demands for transparency (Kim, 2023). Anthropologically, discretion represents a moral choice that mirrors societal conceptions of authority, echoing Islamic jurisprudential debates on *ijtihad* as a form of contextual decision-making. By framing discretion as both legal and cultural, fiqh anthropology allows for a more nuanced understanding of prosecutorial power. This dual lens underscores that legal reforms must be culturally embedded to be effective.

The empirical evidence also highlights the persistent influence of politics on prosecutorial systems. High-profile cases in the United States and South Korea demonstrate how political actors may attempt to shape prosecutorial agendas, raising concerns about legitimacy (Langer & Sklansky, 2022). In Europe, the debate on ministerial oversight reflects a longstanding struggle to balance prosecutorial neutrality with democratic accountability. Japan's rigid hierarchy illustrates how political influence can be internalized through organizational culture rather than external control. From a fiqh anthropological perspective, this dynamic parallels the tension between *istiqamah* (steadfast adherence to principles) and *darurah* (necessity) in Islamic governance. Thus, prosecutorial systems must be analyzed not only as technical frameworks but as reflections of societies negotiating power and morality. This understanding situates law as a living practice embedded in historical and cultural realities.

Finally, the comparative synthesis suggests that no single prosecution model fully resolves the tension between independence, accountability, and efficiency. Each system embodies trade-offs shaped by cultural norms, legal traditions, and political structures, reaffirming the need for context-sensitive reforms. Adversarial systems could benefit from greater transparency in plea bargaining, while inquisitorial systems may need stronger safeguards against political capture. Mixed systems illustrate the possibility of hybrid solutions but require continuous adaptation to shifting societal expectations. From a fiqh

anthropological perspective, these findings resonate with the principle of *takhayyur* (legal selection), which allows jurists to adopt the most suitable norms across traditions. Such an approach recognizes diversity in legal practices as a resource rather than a weakness. Therefore, global discussions on prosecution should shift from searching for a universal model to embracing pluralism grounded in cultural legitimacy and moral accountability.

CONCLUSION

This study has demonstrated that prosecution systems around the world operate under diverse legal, cultural, and political frameworks, each shaped by unique historical trajectories. Adversarial, inquisitorial, and mixed models embody different philosophies of justice, with varying implications for discretion, independence, and accountability. Empirical evidence shows that prosecutorial practices are deeply intertwined with informal norms and cultural expectations beyond formal legal codes. By applying a fiqh anthropological lens, this research underscores that prosecution is not only a legal mechanism but also a moral practice reflecting collective values. This perspective enriches comparative legal scholarship by highlighting the cultural embeddedness of law. Consequently, prosecutorial systems must be assessed holistically, integrating institutional structures with ethical and societal contexts. Such an approach advances a deeper understanding of the prosecution process as both legal and symbolic.

The findings further emphasize that no single prosecution model offers a perfect solution to the competing demands of efficiency, fairness, and independence. Adversarial systems risk inequality through excessive discretion, inquisitorial systems risk politicization through hierarchical integration, and mixed systems face challenges in balancing adaptability with coherence. Case studies from the United States, Japan, and South Korea illustrate how political influence and organizational culture shape prosecutorial behavior beyond formal design. Fiqh anthropology provides a framework to interpret these dynamics as negotiations between legal authority and cultural morality. This contributes to bridging the gap between comparative legal studies and socio-legal anthropology. The lesson is clear: prosecution reforms cannot be transplanted mechanically but must adapt to the moral and cultural logic of each society. This view encourages context-sensitive policy interventions.

Ultimately, this research contributes to global debates on criminal justice reform by offering both empirical data and critical interpretation grounded in comparative and anthropological perspectives. The synthesis of legal analysis with fiqh anthropology highlights the importance of cultural legitimacy in sustaining prosecutorial authority. Such insights open new directions for interdisciplinary scholarship connecting Islamic legal thought, anthropology of law, and comparative criminal justice. For policymakers, the study suggests that reforms should prioritize moral accountability alongside institutional efficiency. For scholars, it invites further empirical research on how prosecutors navigate discretion within culturally embedded moral frameworks. This work thereby enriches ongoing discussions about justice, legitimacy, and governance in a global context. In conclusion, prosecution must be understood not as a static legal process but as a living cultural practice negotiating law, morality, and power.

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