

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**

[ISSN 2581-5369]

Volume 5 | Issue 3

2022

© 2022 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at the **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Adversarial Role of Magistrate in Common Law Countries

SAURABH SINGH¹

ABSTRACT

The two systems of law are generally followed in major countries of world namely, the Adversarial system and the Inquisitorial system. The adversarial system is followed by most of the common law countries and the inquisitorial system is followed by the civil law countries. The Research Article talks about both these systems and their comparative analysis. Also main focus of the author is to understand the role of magistrate in common law countries as compared to that in inquisitorial system. It focuses in the major role of magistrates in development of law. In Adversarial system, the court acts as a referee in the matter between prosecution and defense. It is like a contest between 2 parties. In adversarial procedures before juries, the judge serves as moderator and referee on legal issues, rarely participating in questioning until he or she believes that key legal or factual issues need to be clarified. A judge decides the facts of the case as well as legal issues in a bench trial (without a jury). It is the duty of the judge to decide the case on the basis of presentation of evidence. While on the other hand, Inquisitorial system involves investigation of case by court for getting proof of facts of the case. This system mainly revolves around the dispute resolution and justice for society as well as individuals. Although they both are different from each other, countries use them.

Keywords: Adversarial; Inquisitorial; Magistrate; Investigation; Power.

I. INTRODUCTION

The order in society in contemporary times is obtained by enforcement of law. The paper focuses on the common law countries with adversarial law. Common law is law created by the judges or quasi-judicial tribunals. It focuses in the major role of magistrates in development of law. In Adversarial system, the court acts as a referee in the matter between prosecution and defense. It is like a contest between 2 parties. In adversarial procedures before juries, the judge serves as moderator and referee on legal issues, rarely participating in questioning until he or she believes that key legal or factual issues need to be clarified. A judge decides the facts of the case as well as legal issues in a bench trial (without a jury). It is the duty of the judge to decide the case on the basis of presentation of evidence. While on the other hand, Inquisitorial

¹ Author is a LL.M. Student at National Law University Delhi, India.

system involves investigation of case by court for getting proof of facts of the case. This system mainly revolves around the dispute resolution and justice for society as well as individuals.

Although they both are different from each other, countries use them.

When it comes to the common law countries, they generally use adversarial system of law. Comparing the Adversarial system of law with inquisitorial system of law, it is argued that the former provides with better justice as, it does not give the state any chance to be biased against the defendant meanwhile, the inquisitorial system proponents point out that many of the adversarial system cases are resolved by plea bargaining or settlement. The concept of plea bargaining is not present in inquisitorial system. The comparative analysis of adversarial and inquisitorial reflect that there is a long debate that which system is better than the other. In order to clear the picture, the status in the adversarial law country like US, England, Wales has been compared with inquisitorial law country like France.

(A) Literature Review

The following articles have been extensively used to collect data and information in order to complete this project:

1. The article titled- **America's Adversarial And Jury Systems: More Likely To Do Justice**, By **Gerald Walpin**², extensively studies the American and British adversarial systems to determine whether they actually deliver justice? Also, a comparison with inquisitorial system also has been done.
2. **The Common Law**³, By **Francis M Finch** provides detailed study about the common law since its origins. It describes the concept of common law.
3. **The American Adversarial System In Criminal Cases: Between Ideology And Reality** By **Johannes F Nijboer**⁴ reflects the concept of Adversarial legal system as a system with clarity and actually meaning. It is described to have a conceptual counterpart. It has been compared with inquisitorial legal system for a holistic approach of study.
4. **British, French and American Systems of Justice Compared**, **Bradley C. Canon** thoroughly compares the systems of justice in Britain, France and the United States. It

² Gerald Walpin, America's Adversarial and Jury Systems: More Likely to Do Justice, 26 HARV. J. L. & PUB. POL'y 175 (2003).\\

³ Francis M. Finch, Common Law, 4 CORNELL L. Q. 148 (1918-1919)

⁴ Johannes F. Nijboer, The American Adversarial System in Criminal Cases: Between Ideology and Reality, 5 CARDOZO J. INT'L & COMP. L. 79 (1997).

provides the proper reasoning behind the way the system has developed and their philosophical differences to make the comparative analysis clearer.

- 5. Adele, Justice, Comparative Analysis between Adversarial and Inquisitorial Legal Systems.** In this article, the adversarial and inquisitorial legal system has been analyzed keeping in mind the pro so cases where the right to get a legal representative is waived off in criminal cases.

(B) Statement of Problem

In the common law countries having adversarial system, the magistrates have major role in deciding the cases. This can be reflected through the adversarial system in US, England, Wales and France having inquisitorial system of law. There is a never-ending debate regarding which system of law is better, the adversarial system of law or the inquisitorial system of law. In the following paper, both the system of law has been compared with each other with supporting arguments. The justice delivery system of various countries varies from each other due to differences in the legal system. The legal system also determines what is the role of a magistrate and to what extent may the magistrate use his power to determine the cases. Therefore, the role of magistrates in adversarial system of law has been thoroughly discussed.

(C) Objective of Research

The objective of research is to analyze the role of magistrates in Adversarial system of law.

(D) Research Questions

This study aims to explore the role of magistrates in Adversarial system of law by examining the following questions:

1. What is the role assigned to magistrates at pretrial stage in adversarial system?
2. Whether the involvement of Magistrate in investigation is less participative as compared to that in inquisitorial system?

(E) HYPOTHESIS

The following hypotheses are made in reference to the above raised research questions which shall be examined in this study and the outcome of which shall be enunciated in the Conclusion of this study:

- The magistrates play impartial role in adversarial system of law ensuring the due process of law and justice to be fair and just.

(F) Research Methodology

This Project work is analytical and descriptive in its approach and places reliance on secondary and reference books, literature, electronic data sources available online including magazines, reports, journals amongst other material on Influence of buy-back of securities on Wealth Maximization. It has been done using the Descriptive Methodology and the same is doctrinal or analytical in nature.

(G) Data Collection

The researcher chose a non-empirical method to justify this study. With the support of the library and numerous websites, secondary sources of data collecting such as official government papers, books, articles, and various magazines were utilized which have been adequately cited and all of the original sources have been referenced.

II. ADVERSARIAL AND INQUISITORIAL SYSTEM**(A) Adversarial System**

In the adversarial system of law, the parties are present before a neutral third party. The advocates of the party represent the case simultaneously and the third impartial party attempt to determine the fact and truth of the case and determine the matter thereof. Generally, in an adversarial system of law the neutral impartial third party is a judge or a magistrate. The main role of the judge is to make sure that the whole trial is being held as per the fair provisions of the law of the land. The evidence needs to be entertained as per the rules and guidelines. The main features of the adversarial system of law includes litigation run by parties. The judge does not run the litigation and it is on part of the parties to take the procedure of trial further and submit the witnesses and evidences. As per the presumption of innocence, the jury, magistrate or the judge may consider the evidences presented during the trial only. The victim does not have any role in the case prosecution. This are the main features in the United States adversarial system of law which are as per the common law tradition inherited from England.

(B) Inquisitorial System

In contrast to the adversarial system of law, the inquisitorial system is mainly based on inquiry by the judges. The main elements of inquisitorial system include trials which are run by the judges. The cross examination, evidence is determined and done by the presiding judge and the counsel of parties have a very minor role. If there is a criminal matter of serious nature, the pretrial investigation is done by a judge. The prosecutor in this system is considered equal as a judge and in case of France, both, the prosecutor's as well as the magistrate's training is done

at *École Nationale de la Magistrature*.⁵ In this, the victim can also play major role by commencing the litigation. All across the world, many countries have inquisitorial system of law as per the French model.

III. ANALYSIS OF ADVERSARIAL AND INQUISITORIAL SYSTEM

Both the system of law in discussion stands on polar point of the procedural law systems. Issues for analysis include binding force of case law, investigation, examining phase, the trial, role of judge and counsel, use of juries, evidences, defendant's rights, role of victim, and organization of courts. Analyzing both the system in different basis reflects that the role of judges in inquisitorial system is more active as compared to adversarial system.

The common law countries have the roots of adversarial system of law. It is in sharp contrast to inquisitorial system of law where the magistrate inquires and investigates the case. the adversarial system makes the prosecution compete against the defense and it is observed that justice is served when the adversary convinces the judge or jury that their perspective on the case is the right one. As per Damaska, the adversarial proceedings commence with the rise of disputes and unfolds at the stage where the two adversaries stand before a passive decision maker with the goal to get a verdict. While on the other hand, inquisitorial system of law is a form of official inquiry. In the former one, the procedural action and process are carried on by the two adversaries while on the other latter, the officials carry on with the same.⁶ Hence, it can be observed that the difference of adversarial and inquisitorial system of law relies on the criminal process. It can be said that the adversarial system is horizontal and party-driven while the inquisitorial system is vertical and authority-led.

Although the concept of adversarial and inquisitorial systems is adjacent to each other, the polar ends are different from each other. And determination which one serves justice better depends on criminal justice system of the place. The adversarial system requires the parties to keep their evidences and arguments properly to prove their case but if there are no proper provisions for fair hearing of both the parties, the whole procedure would not be fair. Also, in inquisitorial system, the authorities need to be competent and independent. Neglect of any one of these from either of the system would only corrupt the criminal justice system.

⁵ Michael L. Corrado, The Future of Adversarial Systems: An Introduction to the Papers from the First Conference, 35 N.C. J. INT'L L. 285 (2009).

⁶ M. Damaska, *The Faces of Justice and State Authority. A Comparative Approach to the Legal Process*, London, Yale University Press, 1986, 3.

IV. COUNTRIES WITH ADVERSARIAL AND INQUISITORIAL SYSTEM

Judicial system is one of the basic pillars of administration of law. It keeps a check in administration of law and it constitutes a judicial branch of government which interprets and applies law. Different nations have different system of judiciary and doctrines to determine the extent to which the judiciary has jurisdiction to determine interpretation and applicability of various laws of the land. The smooth running of the state depends on the system of the judiciary. In many states, the judiciary has the power of judicial review to make amendments and pass precedents that are as per the needs of the society. The constitution or the fundamental norm of each country determines the judiciary system and its functioning- whether it is independent or not. Generally, the responsibility of interpreting and implementing the constitution is vested on shoulders of the judge to uphold the ‘rule of law’.

Generally, the countries with common law system have adversarial nature proceedings to adjudicate the process of adjudication⁷ When we look into the adversarial and inquisitorial system, we can observe that there are similarities to an extent to ensure that the justice is delivered. Merely choosing adversarial or inquisitorial system of law would not always provide positive results. For the betterment of societies, the legal systems of many countries have evolved with time. The various countries across the world have different judicial systems. They differ from each other individually. Many countries have mixed systems which include laws like, common law, customary laws, sharia law, civil law, and many more. As per the needs of every country, different law systems have been adopted to make sure that justice is delivered to the common citizen of the country.

The jurisprudence of US and UK is based on common law which hugely depends upon the precedents as compared to the legislatures. While in France, the jurisprudence is based on civil law which are developed by legislative bodies. When both, common law and civil law emerged, many laws and precedents were framed but, the rapid changes in the social behavior the nature of the proceeding bended which resulted in mixing of Anglo-American countries and France. For the purpose of the paper, the countries with adversarial and inquisitorial system of law have been described and discussed to elaborate the role of magistrates.

⁷ E4J, University Module Series: Organized Crime, UNODC, (16/05/2022)
<https://www.unodc.org/e4j/en/organized-crime/module-9/key-issues/adversarial-vs-inquisitorial-legalsystems.html>

V. JUDICIAL STRUCTURE

(A) The United States

The US mainly has a federal system of law and has 2 sets of courts which include the national level and the state level courts. The Apex court in the US judiciary is the United States Supreme Court. It performs the main function of interpretation of the United States Constitution and those interpretations are binding on all the States of US. Also, the US supreme court is the power of judicial review. This power is not vested in the courts of UK or France. The US courts have the concept of shaping up the public policy in the country by case laws and precedents. It can be reflected in the case of *Brown v. Board of Education*⁸, where, the US court held that racial segregation is unconstitutional irrespective of the fact that such segregated schools are equal in quality. In US, the judiciary played its role actively related to the matters of economic issues.

(B) The English Courts

The English courts are the pioneers of common law. The legal system of UK is a predominantly adversarial system of law. The parties have to investigate and present their own evidences before the court of law. originally, the countries had a mixed system with adversarial roots. The English system of law has changed its course from adversarial system of law with the rising concerning of wrongful acquittals and much needed efficiency. The changes made in the system are recognized a inquisitorial ones but they go far beyond any know inquisitorial system of law.⁹¹⁰ The judicial structure of English courts is divided into 2 parts the civil and criminal. The active debate of which system of law is better. The miscarriage of justice in England and Wales the concept of public prosecutor rose. Although England and Wales are the pioneers of common law, the criminal justice system have moved away from the adversarial system of law. this was due to the high costs and lengthy trials. Due to the absence of any written constitution, the court has relatively less effect on the public policy which means that the English Court do not have the power of judicial review. It is a unitary system of law.

(C) France

In France, the judicial system includes a large number of specialized courts have 2 divisions, the correctional tribunal and the civil section. The courts play the function of interpretation of the law decided by lower courts. And there is court in specialized field with original jurisdiction

8 Brown v. Board of Education, 347 U.S. 483 (1954)

9 Jacqueline S. Hodgson, The Future of Adversarial Criminal Justice in 21st Century Britain, 35 N.C. J. INT'L L. 10 (2009).

which includes, juvenile, farm problems, etc.

France has an inquisitorial system of law and it is contrary to the Anglo-American countries which have adversarial system of law. in the first phase of the trial in France, there is police investigation which is not very different than the one in US and UK, but it is done under the authority of public prosecutor instead of the police authority or the parties.

In the French criminal procedure, the judge is the most critical body courts. The defendant is questioned and answer given by him are a part of evidence while, in the Anglo-American countries, the defendant can't be compelled to testify.¹¹

(D) Role Of Magistrates

The magistrate plays an important role in the adjudication process of both the system of law-adversarial as well as inquisitorial. The former is based on the role of judges and the partial advocates for each side. The main aim for the system is to deliver justice in the society and make sure that there is just and fairness in the society. The accusatorial procedure is done in the adversarial system where the prosecutor tries to prove guilt of the defendant while the defense argues for acquittal of defendant. mostly, the common law countries like US, Canada, UK having English legal system have adversarial system of law. the main role of the magistrate is to make sure that the procedure of trial is as per the rules of procedural laws of and that evidence is admitted as per the rules and regulations.

The judge in an adversarial system of law is a passive and neutral fact finder who examines the evidence submitted by the parties regarding the issues in conflict between the parties. It is important to note for the magistrate to be uninvolved in the case in order to reach a mature decision. In Australia also, there is adversarial system of law where the two parties argue before the impartial third party to win the arguments and prove their case beyond any reasonable doubts.¹²

In England and Wales, the judge acts as a referee in the adversarial system of law and their roles have been described by Denning LJ, in *Jones v National Coal Board*¹³ as follows: the system of trial in England and Wales defines the role of magistrates to hear the matter and determine the issues raised and not investigate the cases in public interest. The role of judge is only to question the witness only when felt necessary and if not so, then he leaves the role of a

11 Bradley C. Canon, British, French and American Systems of Justice Compared, JSTOR, (16/05/2022), <https://www.jstor.org/stable/45312526>

12 Features of the adversary system of trial, Engage Wiki, (15/05/2022), <http://wiki.engageeducation.org.au/legalstudies/unit-4/area-of-study-2-court-processes-and-procedures-and-engaging-in-justice/features-of-the-adversary-system-of-trial/>

13 Jones v National Coal Board, (1957) 2 QB 55

judge and switched over as an advocate. He can only question the witness if he wants to clear a question of law, exclude irrelevancies and make sure that his intervention does not break or affect the proceeding.

Therefore, from the above statement, it can be understood that the role of trial judges in England and Wales is passive when it comes to criminal trials. They have the authority to determine which evidence is admissible before the trial or which testimony is audible. But there are limits on the judicial intervention as the judge has influence on the jury.

VI. ROLE ASSIGNED TO MAGISTRATES AT PRETRIAL STAGE IN ADVERSARIAL SYSTEM

The role of magistrates at pretrial stage in an adversarial system is quite limited. The judge has the role to passively judge the case and be an impartial referee advising the jury. The magistrate has a passive role and he is not involved in the investigation. This is done in order to prevent premature conclusions and over involvement of the magistrate in the matter to make sure that the criminal trial of adversarial system is just and fair for both the parties. It is the duty of the parties to investigate and present evidence before the magistrate. This preserves the fairness of the trial procedures and avoid premature judgements. They are the ones responsible to present proper credible true evidence according to procedural laws before the magistrate.¹⁴

US

In US, criminal justice procedure is based on Federal Rules of Criminal Procedure. It provides that the investigation and arrest is done by the Police. The prosecutor files the information of the case before grand jury called indictment which is followed by arraignment by a judge. It can be observed that the trial procedure commences with the filing of case before the court and there is no specific role in part of the magistrates. They only have the responsibility to decide the outcome of pretrial motions whether to dismiss, suppress or change the venue but they do not decide the cases.

In Pro So Cases

The question of adversarial and inquisitorial system arose when the litigants expressed their distrust in the adjudicatory process. When we observe both the systems closely, there are similarities as well as differences between both of the systems. In the criminal justice system, when we practically look into the adversarial and inquisitorial system of law, their similarities

¹⁴ "Adversarial and Inquisitorial Systems of Justice." LawTeacher. LawTeacher.net, November 2013. Web. 10 April 2022. <https://www.lawteacher.net/free-law-essays/criminal-law/adversarial-and-inquisitorial-systems-of-justice.php?vref=1>

would come up clearly. Especially in case of *pro so*¹⁵ criminal trials the two system of law get muddled up.¹⁶¹⁷

When there is a purely adversarial trial, the main control of proceedings rests on the hands of the parties. It is the discretion of the parties to conduct their cases through counsel, issues for determination of court, witnesses, evidence to tender, objections and the subject matter of the case.¹⁸ Meanwhile, the judge has the duty in case of *pro so* criminal trial, to control and direct the defendant the necessary question of laws and issue to work on. The judge indirectly assists the defendant to formulate the case. Resultant to the control of judge in *pro so* defendant cases, there are rules and regulations for the defendant for procedure. These procedural rules are for providing fair play. The judge informs the defendant of his basic constitutional rights and also conduct questioning of witnesses. The judge has to make sure that the absence of knowledge in part of the defendant does not rob the trial of its fairness. In the landmark judgement of *Gideon v Wainwright*¹⁹- it was held by the US court that, if any poor man is unable to hire a counsel for his defense, the trial cannot be fair by any means and this is the implied truth.

England and Wales

In England and Wales, the common law provides for adversarial system. The criminal cases are put up before the Courts after the CPS- Crown Prosecution Service decides to prosecute someone against a crime. Before the commencement of trials, the judge familiarizes himself with the facts and details of the case by going through the indictment and relevant case papers. In case of jury trials in Crown Court, the judge selects the members of the jury and directs them their roles and maintain the confidentiality of the case.²⁰ During next stages of trial, the magistrate actively participates by controlling the way the trial is going on. But, as it can be observed, the adversarial system of law provides the judge power to makes sure that the trial is going as per the procedural laws. Also, the parties have the responsibility to bring their cases before the court and the judge or jury do not have any role to play at the pre trial stage except the above mentioned.

France

Contrary to the above-mentioned countries with adversarial system of law, the judges in the

15 The trials where the defendant represents himself and denied the constitutional right of legal representation

16 Adele, Justice, Comparative Analysis between Adversarial and Inquisitorial Legal Systems (November 25,

17). Available at SSRN: <https://ssrn.com/abstract=3077365> or <http://dx.doi.org/10.2139/ssrn.3077365>

18 M Banchuk, 'The International Criminal Court and Terrorism' [2003] Peace and Conflict Development and Interdisciplinary Journal; 1-19.

19 Gideon v Wainwright, 372 U.S. 335

20 Criminal, Court and Tribunals Judiciary, (16/05/2022), <https://www.judiciary.uk/about-the-judiciary/thejustice-system/jurisdictions/criminal-jurisdiction/>

inquisitorial system countries have the routine to do preliminary investigation at pretrial stage of the proceeding. Unlike the adversarial system, the judge has the responsibility to look into the matter actively and investigate, determine the question of law, issues, and also ascertain the relevant evidences needed in the trial. When we observe in adversarial system countries, the same is either done by the state authorities like Police (in case of US) or the parties themselves.

VII. THE INVOLVEMENT OF MAGISTRATE IN INVESTIGATION IS LESS PARTICIPATIVE AS COMPARED TO THAT IN INQUISITORIAL SYSTEM

The adversarial system has a non-interventionist role of a judge who only oversee that the prosecution proves their case beyond any reasonable doubt against the accused. Meanwhile in the magistrate is the principal interrogator of the witnesses and the defendant. it can be said that the judge is a referee between the two opposing parties in adversarial system while in inquisitorial system, the judge is the fact finder of the prosecution.

It is a well-established fact that the involvement of magistrate in investigation is less participative as compared to that in the inquisitorial system. The reason behind this is that an inquisitorial system includes the preliminary investigation while in adversarial system, the judge is merely a referee between the parties of the suit. It has also been discussed in *R v Whithorn* by Dawson J, that, in the adversarial system of law, the judge has to role to balance the contentions between the parties without being involved himself. There is no concept of pursuit of truth like the inquisitorial role of judge.²¹

The role as a quality fact finder institutionally and the role as an independent check on the legislative and executive power is overlapping with each other.²² In Simpson Murder case, the Law professor, Peter Arenella opined that, it is the duty of the prosecution to prove the guilt of the defendant beyond reasonable doubt before the jury. And on the other hand, it is the duty of the council of the defendant to question the credibility of the evidence put up by the prosecution against the defendant. the counsel of the defendant cannot submit any testimony except that of the truth but in order to show that the witness by prosecution has racist attitudes, it is in the role of council to reflect on the same.²³

It is in hands of the judge to control the court and everyone else has to cooperate with the same. In the criminal procedure of inquisitorial system, the judge has the authority to conduct pretrial

21 R v Whithorn, (1983) 152 CLR 657

22 "Adversarial system v The Inquisitorial system", Yan Yu, <https://www.cbl-international.com/docs/cs0714/the-adversarial-vs-inquisitorial-system.pdf>

23 Peter Arenella, the OJ Verdict, Frontline, (17/05/2022) <https://www.pbs.org/wgbh/pages/frontline/oj/themes/public.html>

investigation and independently search for material truth of the case. the judge has the control the process, witness, and the evidences. The judge in inquisitorial system of law has the power to do investigation of the case. the investigation of truth is the main object behind the inquisitorial system of justice.

The main goal of both the legal system- adversarial system and inquisitorial system is to unravel the truth of the case but when we observe and compare both of them, the inquisitorial system gives more value to the discovery of truth by empowering the judge or magistrate or jury to investigate on the matter thereof. While, in the other hand, in adversarial system, the magistrate acts only as a neutral referee who looks after the procedural rules of the trial proceedings.

VIII. CONCLUSION

An adversarial system is the system of law where the parties present their case in courts of law with the judge or jury as the neutral third party which decides on the matter in question on the basis of the arguments and evidences by the parties. Meanwhile, the inquisitorial system of law attract investigation done by the judges or the public prosecutors.

Various countries have different form of legal systems. Some have adversarial while other have inquisitorial system of law and some have mixed form of legal system as per the needs of the public at large. The countries with common law have adversarial system of law. The jurisprudence of US and UK is based on common law which hugely depends upon the precedents as compared to the legislatures. While in France, the jurisprudence is based on civil law which are developed by legislative bodies.

The role of magistrate varies from each other in adversarial system of law and the inquisitorial one. The countries like United States, England, Wales have adversarial system of law which has been discussed above while France has an inquisitorial system of law. The role of magistrates is passive in nature. He only judges the evidence submitted by the parties. The role of trial judges in England and Wales is passive when it comes to criminal trials. They have the authority to determine which evidence is admissible before the trial or which testimony is audible. But there are limits on the judicial intervention as the judge has influence on the jury.

The role of magistrates in pretrial stage in the adversarial system is limited in order to make sure that the magistrates are not directly involved in the case and avoid any harm to the fairness of the procedures. From the above discussion, it can also be observed that the involvement of magistrate in investigation is less participative as compared to that in inquisitorial system. The main goal of both the legal system- adversarial system and inquisitorial system is to unravel

the truth of the case.

IX. REFERENCES

(A) Cases

- Francis M. Finch, Common Law, 4 CORNELL L. Q. 148 (1918-1919)
- Brown v. Board of Education, 347 U.S. 483 (1954)
- Jones v National Coal Board, (1957) 2 QB 55
- Gideon v Wainwright, 372 U.S. 335
- R v Whithorn, (1983) 152 CLR 657

(B) Articles

- Gerald Walpin, America's Adversarial and Jury Systems: More Likely to Do Justice
- Johannes F. Nijboer, The American Adversarial System in Criminal Cases: Between Ideology and Reality
- Michael L. Corrado, The Future of Adversarial Systems: An Introduction to the Papers from the First Conference
- M. Damaska, The Faces of justice and State Authority. A Comparative Approach to the Legal Process
- Jacqueline S. Hodgson, The Future of Adversarial Criminal Justice in 21st Century Britain
- Bradley C. Canon, British, French and American Systems of Justice Compared
- Adele, Justice, Comparative Analysis between Adversarial and Inquisitorial Legal Systems
- M Banchuk, 'The International Criminal Court and Terrorism' [2003] Peace and Conflict Development and Interdisciplinary Journal; 1-19.

(C) Internet sources

- E4J, University Module Series: Organized Crime, UNODC
- Features of the adversary system of trial, Engage Wiki
- "Adversarial and Inquisitorial Systems of Justice." LawTeacher. LawTeacher.net, November 2013. Web. 10 April 2022. <https://www.lawteacher.net/free-lawessays/criminal-law/adversarial-and-inquisitorial-systems-of-justice.php?vref=1>
- Criminal, Court and Tribunals Judiciary, <https://www.judiciary.uk/about-the-courts/>

judiciary/thejustice-system/jurisdictions/criminal-jurisdiction/

- Adversarial system v The Inquisitorial system, Yan Yu
- Peter Arenella, the O J Verdict, Frontline.
