

## **Seventh lecture**

**Second/ The justice stage:** The rules of justice are an important element in the English legal system, as will be explained successively:

The rules of justice are formed: In the year 1485, the Trudeau family assumed power in England after the end of the civil war. As a result, the king was no longer able to consider and decide on the cases brought before him, so he referred them to the chancellor and his secretary to decide them according to the requirements of justice, as the chancellor was. He receives petitions from litigants. If he receives a petition, he transmits a copy of it to the opposing party, attaching an order from him inviting him to appear before him at a time specified by him, if he complies before him, he must answer what was stated in his opponent's complaint after taking the oath. However, if he refuses to appear, he will be taken to the advisor and accused of the crime of disobedience, and a heavy fine will be imposed on him, which he must pay.

If the advisor feels that the complaint has not been established, he shall dismiss it. If he feels that it has been established, he orders the opponent not to file the lawsuit before the royal courts if he has not filed it, without preventing the latter from exercising its jurisdiction. However, if he had filed it before the complaint and a ruling was issued that the advisor considered unfair, he orders the opponent must not adhere to the gain he has obtained under this ruling, which is contrary to the rules of justice. If the opponent objects and refuses to comply with the advisor's order, the latter shall be ordered to imprison and seize his money.

What was issued by the advisor were not judicial rulings in the strict sense, but rather they were orders that addressed the shortcomings of the Common Law and its shortcomings in some cases, and filled its loopholes and completed its shortcomings, especially those that contravened the rules of justice, as the advisor was ordering implementation in the name of justice, contrary to the rules of the Common Law, which required With compensation, he also accepted the transfer of rights and the transfer of debt in the name of justice, contrary to the provisions of Common Law, which did not recognize them.

The status of the rules of justice: In light of the shortcomings and defects that befell the Commons rules if other new rules were created and developed, independent, simple, flexible, concise, and in line with the circumstances of the time, as rulings were issued according to precisely defined procedures that were mainly characterized by the chancellor's enjoyment of discretionary authority in accepting the decision on matters. The issues presented to him, provided that the defendant's behavior is contrary to what his conscience suggests, and that the plaintiff himself is not at fault in any aspect of the dispute.

Justice was also characterized by the absence of the jury and its focus in its procedures on the investigative nature, in contrast to the Common Law system, which adopts an in-person nature.

### **The third section: The modern era stage**

At this stage, signs of a change in the English legal system began to appear as a result of the influence of democratic ideas on English society on the one hand and England's entry into the European market on the other hand. This change affected the judicial and legislative levels, as will be explained successively:

**First: Manifestations of change at the level of judicial organization** : Signs of change began to appear starting in the year 1873, the date of the issuance of the Judicial Organization Law, which abolished the distinction between the Royal Courts and the Court of Justice in terms of jurisdiction, as litigants accordingly had the right to choose the judicial body before which they would file their lawsuit. This gave the rules of justice priority of application in the event of conflict with the rules of the Common Law.

The powers of the local judicial bodies, which are competent to hear all cases as a court of first instance, were also amended, in addition to simplifying many procedural rules and creating evidence for criminal evidence and other evidence for civil evidence. In 1985, the Public Prosecution Authority was also created.

**Second: Manifestations of change at the level of legislation**: Although English law remained far from the legislative movement, it was not completely spared from it, as non-applicable laws and old solutions that no longer kept pace with the requirements of the times were excluded, and provisions were coordinated, classified, and classified into groups, including legal reports. and the English Code of Laws.

These steps were strengthened in the second half of the twentieth century, when permanent legal committees were established to amend the law and prepare for the codification process, as many laws were voted on by Parliament related to labor relations and health.

Over the years, the number of written legislations in England doubled, highlighting the important role of legislation in the English legal system, which was further strengthened by recording a fundamental and important change related to the position of English law on administrative law, as the actions of administration became subject to the supervision of the English judge, who determines the extent to which they achieve the public interest. or not.

Not only did the judiciary confront the supervision of the administration's work within the framework of its restricted authority, but it also extended its oversight over the discretionary authority it enjoyed, especially those related to the protection of national security. The judiciary also supported its powers in confronting the public authority since 1993, when it canceled the decision of the Minister of the Interior due

to its lack of respect for the content of the administration. A judicial ruling also ruled that orders could be given to the administration.

### **The second requirement: sources of English law**

English law was formed from the rulings of the Royal Courts and the Chancellor's Courts, which reflects the role of the judiciary in forming this law. As for legislation, its role was limited to completing, correcting and filling the gaps in the judicial law and nothing else. Accordingly, the judiciary constitutes the basic source in this legal system, followed by legislation and then custom, as will be explained. Consecutively.

### **The first section: the judiciary**

The judiciary or judicial precedent is considered the basic source of law in this system, and judicial precedents are the rulings issued by higher judicial bodies, which are collected in special codes or groups and become binding for ruling in other subsequent similar cases, whether by the same court or other lower courts, where the judge is obligated to By following the rules that the judiciary has previously decided in the cases previously presented to it, which are called judicial precedents, The rulings issued by the House of Lords are considered binding precedents for all types of courts, and the rulings issued by the Courts of Appeal are considered binding precedents for the court itself and for all courts below it. Likewise, the rulings issued by the Supreme Court are not considered binding for lower courts, but they enjoy a degree of respect and are often taken into account. The various chambers of this court.

Accordingly, the role of the judge in this system is not limited to applying the law, but rather his role is the creator of the rule that he applies, as he himself establishes the legal rule.

Judgments in this system are issued in the form of a lengthy statement, which is known as the “wisdom of the decision,” which is binding in the decision, that is, the logical reason on which the judge based his ruling without being bound by the reasoning for the ruling because that is considered an infringement on the dignity of the judge who is not obligated to give a reason for his ruling. He rules and does not have to explain, so this ruling constitutes a legal rule that constitutes the totality of judicial precedents, Where the judge can quote the precedent and citation directly, or extract it through rational deduction or analogy, and this is in contrast to the Latin Germanic system in which the ruling consists of a statement and reasons.

The judicial organization in countries that embrace this system is characterized by the presence of a higher judiciary and a lower judiciary, where the rulings of the higher judiciary constitute binding judicial precedents, while the decisions of the lower judiciary affect the course of subsequent cases but have a mandatory character.