

ENGLISH LAW SYSTEM

BY

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Level 3

T/650/33551

WORD COUNT: 4592 ONLY TEXT including PPT text.

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Task 1 – PRINCIPLE OF ENGLISH LAW

SUPPORTING NOTES

Introduction

English Law, a dynamic field, is shaped by diverse legal principles and methods of law making. This foundation underscores the multifaceted nature of legal development (Partington, 2021).

Methods of Law Making

Statutes: Enacted by parliament, statutes serve as the primary legislative source, providing a structured framework for legal governance (Crawford, 2020).

Case Law: Develop through court decisions, case law establishes legal precedents, contributing significantly to the evolution of English law (Holmes, 2020).

EU Law: Originating from the European law, EU has played a crucial role in shaping and influencing various legal dimensions (Malinauskaite, 2020).

Criminal vs. Civil Law.

Criminal Law: Centered on offenses against the state, criminal law imposes penalties such as imprisonment or fines to maintain societal order (King, 2023).

Civil Law: Addressing disputes between individuals or entities, civil law seeks remedies like compensation, aiming to resolve conflicts in a fair manner (Cartwright, 2023).

Public vs Private law

Public Law: Governs the state's relationship with individuals, encompassing constitutional and administrative law, shaping the power dynamics within society (Murphy, 2023)

Private Law: Deals with disputes between individuals, covering areas like contract, tort, and family law, focusing on the resolution of private conflicts (Pojanowski, 2013).

Legislative Process

Understanding the legislative process is essential for legal systems knowledge. Key stages include the introduction of a bill in parliament, committee stage, report stage, and third reading, followed by House of Lords review. The final step is Royal Assent, marking the bill's transformation into legislation, a critical aspect of the legal framework (Рябошапко and Нестеренко, 2023)

TASK 2- STATUTORY INTERPRETATION

INFORMATION SHEET 1: Traditional Techniques in Statutory Interpretation

Statutory interpretation involves deciphering the meaning of legislation, and three traditional techniques are employed by courts to achieve this. (SAAD, 2023).

Literal Rule

The literal Rule dictates that statutes should be interpreted according to the plain and conventional meaning of the words used. The primary focus is on the literal, grammatical interpretation without considering underlying intentions. It is applied when Courts apply the Literal Rule when the statutory language is clear and unambiguous. The Literal Rule ensures the judiciary adheres strictly to the language chosen by the legislature. It Upholds the principle of parliamentary sovereignty by respecting the exact words chosen by the legislature. Provides legal certainty as it allows for an application of the law based on the plain meaning of the text. (Palsikar, 2020).

In the case of *Whitely V. Chappell* (1868), the court firmly smears the Literal Rule, leading to a narrow interpretation that excluded certain defendants from the scope of the statute. This approach highlighted the importance of adhering strictly to the literal wording, even if it led to an arguably unjust outcome (*Whitley V Chappell*, 1868).

Mischief Rule

The Mischief Rule, also known as the Heydon's case approach, involves identifying the "mischief" or gap in the law that the statute aims to remedy. The court construes the statute in a way that subdues the mischief and progresses the remedy. Applied when the court perceived a gap or delinquent in the law that the legislation was projected to address and requires an examination to the historical context and purpose behind the enactment. It Allows the court to give effect to the true intent and purpose of the legislature. Addresses the shortcomings or inadequacies in the law that the statute seeks to rectify (Bray, 2020).

In the case of *Smith V Hughes* (1960) The court applied the Mischief Rule to construe a statute prohibiting street solicitation for the purpose of prostitution. By identifying the mischief, the statute aimed to address, the court applied a broad interpretation, considering the legislative purpose rather than a strict literal reading (*Smith V Hughes*, 1960)

Golden Rule

The Golden Rule permits a court to proceed from the literal meaning of a word or phrase if following it would result in an irrational or unjust consequence. The court chooses an substitute construal that aligns with the purpose of the legislation. Applied when the Literal Rules would lead to an absurd result. The court selects a reasonable interpretation that aligns with the overall purpose and objectives of the statute. It Prevents the absurdity that may arrive from a strict adherence to the literal wording. Balances the need for legal certainty with the avoidance of unjust or unreasonable outcomes (SAAD, 2023).

The case of *Adler V George* (1964) where the court pragmatic the Golden Rule to interpret a statute concerning obstruction of a member of the armed forces. The court departed from the literal meaning to avoid an absurd outcome, choosing an interpretation that aligned with the legislative purpose. (*Adler V George*, 1964)

Conclusion

Understanding those traditional techniques provides insight into the nuanced ways court interpret statutes. The Literal Rule emphasizes the importance of plain language, the Mischief Rule

seeks to remedy legislative gaps, and the Golden Rule balances literal interpretation with practical reason.

INFORMATION SHEET 2: Intrinsic and Extrinsic Aids

Statutory interpretation involves not only understanding the text but also utilizing aids to resolve ambiguities. Courts employ two categories of aid, as discussed by Green (2023)

Intrinsic Aids

Intrinsic aids are piece of information found within the statute itself, providing clues for interpretation. Courts refer to intrinsic aids to understand the meaning of specific words or phrases within the statute (Green, 2023). Examples include:

Long/Short Titles: Titles preceding or within the statute can offer insight into the general purpose or scope (Green, 2023).

Punctuation: The placement of commas, colons, or other punctuation marks can affect the interpretation of clauses or phrases (Green, 2023).

Definition Sections: Dedicated section that provide meanings for terms used in the statute (Green, 2023).

Marginal Notes: Brief description located in the margins, providing summaries of sections or clauses (Green, 2023).

Text or Dictionaries: Reference to authoritative text or legal dictionaries to comprehend legal terms or phrases within the statute (Green, 2023).

Use by Courts:

Internal Structure Analysis: Courts examine the internal structure of the statute, considering the arrangement of sections, headings and definitions to ensure consistency in interpretation (Green, 2023).

Plain Meaning Consideration: Courts may start with the plain meaning of words but then use intrinsic aids to refine the interpretation based on internal clues (Green, 2023).

Extrinsic Aids

They are sources of information found outside the statute, assisting in the interpretation of unclear or ambiguous language. Courts turn to extrinsic aids when the meaning of the statute is not evident from the text alone. (Green, 2023). Examples include:

Legislative History: Records of the legislative process leading to the enactment (Green, 2023).

Parliamentary Debates: Discussions among lawmakers during the legislative process (Green, 2023).

Prior Versions: Earlier drafts or versions of the statute (Green, 2023).

Other External Sources: Relevant materials that provide context to the statute (Green, 2023).

Use by Court

Resolving Ambiguity: Extrinsic aids are particularly valuable when the language within the statute is ambiguous or unclear (Green, 2023).

Understanding Legislative Intent: Courts use extrinsic aids to gain insight into the legislative intent and purpose behind specific provisions (Green, 2023).

Avoiding Absurd Outcome: Extrinsic aids help courts avoid absurd or unintended outcomes by considering the broader context in which the legislation was drafted (Green, 2023).

Courts often integrate both intrinsic and extrinsic aids for a comprehensive understanding. The interplay between these aids allows for nuanced interpretations aligned with legislative intent.

TASK 3- ENGLISH COURT

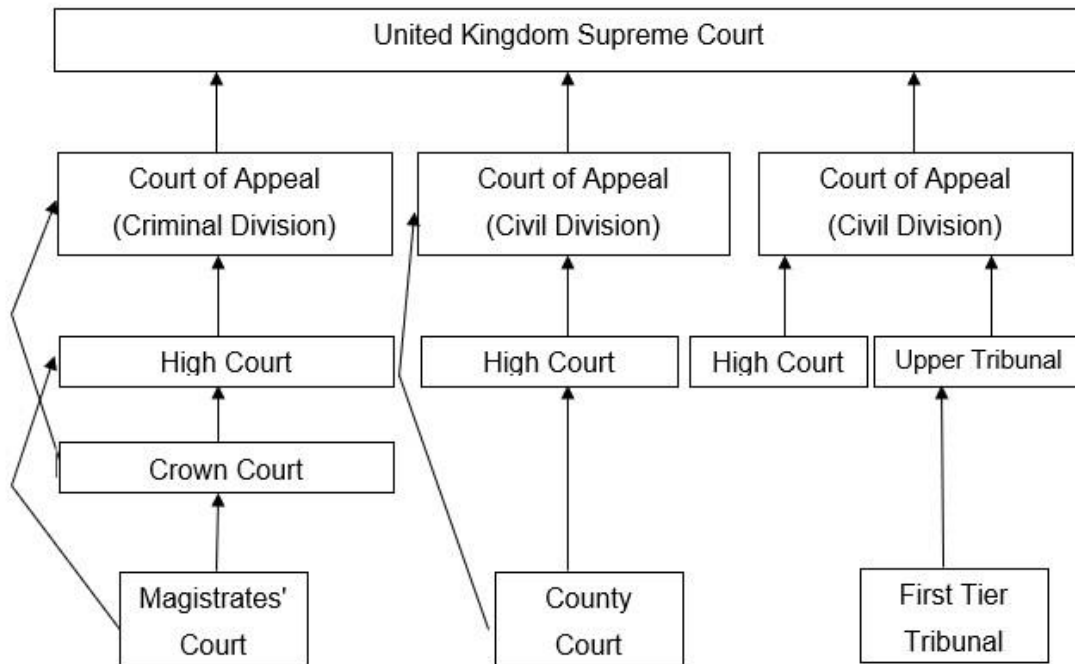


Figure 1: Court Hierarchy

Source: **The Judiciary Lecture (LawTeacher.net, 2018)**

<https://www.lawteacher.net/lectures/public-law/the-judiciary/?vref=1>

CRIMINAL LAW

Magistrates Court:

Serving as the initial entry point for most criminal cases, handles less serious offenses like minor assaults or traffic violations (King, 2023).

Types of cases: Misdemeanors, summary offenses and initial hearings for more serious charges. E.g, the case of R v Smith (2018) of shoplifting (King, 2023).

Power: It has limited sentencing powers, like giving fines and short term imprisonment (King 2023)

Crown Court

Take more serious criminal cases, including main offenses like robbery or murder. It operates with a judge and jury (King, 2023).

Types of cases: Severe criminal offenses, including criminal offenses referred from the Magistrates' Court. E.g, the case of R v Jones happened in 2020 (King, 2023).

Power: It has sentencing powers and also include imprisonment for carrying lengths (King, 2023).

High Court (Queens Bench Divisions):

This court deals with major offenses and appeal that are from Crown Court (King, 2023).

Types of cases: Handles appeals from the Crown Court and also complex criminal problems. Like the case of R v Johnson, 2019 that was for financial fraud (King, 2023).

Power: This court has extensive powers and also includes the ability to issue life sentences. It also handles complex legal issues (King, 2023).

Court of Appeal (Criminal Division):

The Court of Appeal (criminal division) perceives appeal from the Crown Court and the High Court, assessing legal errors and ensuring a fair trial (King, 2023).

Types of cases: Appeals from criminal convictions and sentences. E.g, R v Davis (2017) for an appeal against conviction (King, 2023).

Power: The power to overturn convictions, alter sentences, and set legal precedents (King, 2023).

Supreme Court:

This is the highest court in UK, it handles significant criminal cases and serving as the final court of appeal (King, 2023).

Types of cases: Landmark criminal cases, constitutional issues. E.g, R v Supreme Court (2022), a constitutional case (King, 2023).

Power: The ultimate authority in interpreting the law, setting legal precedents and making decisions on critical legal matters (King, 2023).

CIVIL LAW

Country Court:

Handle civil matters of lower value, small claims, and certain family matters, this court is initial venue for civil cases (НИКИТЮК, 2018).

Types of cases: Civil claims, small claims, family matter. E.g, the case of Smith v Jones (2019) for a small claims dispute (НИКИТЮК, 2018)

Power: Limited jurisdiction compared to the High Court (НИКИТЮК, 2018).

High Court (Queens Bench Divisions):

The High Court, in the context of civil law, addresses high value disputes and complex cases (НИКИТЮК, 2018).

Types of cases: Complex civil matter, high value disputes. E.g, the instance of Johnson V, Smith (2020) for a high value contract dispute (НИКИТЮК, 2018).

Power: Varied powers across division, including issuing life sentences in certain circumstances (НИКИТЮК, 2018).

Court of Appeal (Civil Division):

The Court of Appeal (civil division) hears appeal from the Crown Court and the High Court and certain tribunals, deciding points of law and ensuring fair trial procedure (НИКИТЮК, 2018).

Types of cases: Appeals from civil cases, points of law. E.g, the case of Doe v Roe (2018) for an appeal on a contractual issue (НИКИТЮК, 2018).

Power: The power to overturn decisions, altering sentences, setting legal precedents (НИКИТЮК, 2018).

Supreme Court:

As the highest court, it handles significant civil cases and serve as the concluding court of appeal (НИКИТЮК, 2018).

Types of cases: Landmark civil cases, constitutional issues. E.g, Smith v Supreme Court (2021) a landmark constitutional case (НИКИТЮК, 2018).

Power: The ultimate authority in interpreting civil law, setting legal precedents, and making decisions on critical legal matters (НИКИТЮК, 2018).

PROCESS OF APPEAL

Magistrates Court:

Civil Appeals: Decisions from Magistrates' Court in civil cases be appealed to the Country Court (Hanretty, 2020).

Criminal Appeals: Criminal cases can be directed to Crown Court for appeal (Hanretty, 2020).

Crown Court:

Civil Appeals: Appeals go to the High Court or relevant division of the High Court (Hanretty, 2020).

Criminal Appeals: Appeals are heard by the Court of Appeal (Criminal Division) (Hanretty, 2020).

High Court (Queens Bench Divisions):

Civil Appeals: Cases here are to be appealed to the Court of Appeal (Civil Division) (Hanretty, 2020).

Criminal Appeals: Appeals are heard by the Court of Appeal (Criminal Division) (Hanretty, 2020).

Court of Appeal:

Civil Appeals: May further appeal to the supreme court (Hanretty, 2020).

Criminal Appeals: Cases can proceed to the supreme Court. (Hanretty, 2020).

Supreme Court:

Final Court of Appeal: The highest Court for both civil and criminal cases (Hanretty, 2020).

ROLES OF COURTS:

Court of Appeal:

Civil Appeals: Consider appeals on points of law or fact. May grant or refuse permission to appeal (Sorabji, 2021).

Criminal Appeals: Assesses legal errors, can overturn convictions or alter sentences (Sorabji, 2021).

Supreme Court:

Final Court of Appeal: Hears appeals on constitutional issues, significant civil and criminal matters. Sets legal precedents (Sorabji, 2021).

European Court (before Brexit):

Civil and Criminal Appeals: Cases could be appealed to European Court of justice (ECJ) on matters involving EU law (Vajda, 2021).

ENGLISH LAW vs. EUROPEAN UNION LAW:

Historical Background:

The connection among English law and EU law developed through the UK's membership in the European Union. Key milestones include the signing of the Treaty of Rome (1957) and the UK's entry into the EU in 1973 (Schütze, 2021).

Implications for English Law:

EU law had a significant impact on various legal aspects, including trade, employment and human rights. The doctrine of supremacy of EU regulation intended that EU regulations took precedence over contradictory national laws (Schütze, 2021).

Post-Brexit Implications:

With the UK's exit from the EU, the relation changed. The ECJ lost jurisdiction over UK legal matters. English law is now less influenced by EU law, but certain aspects of EU law may still apply depending on agreements reached (Schütze, 2021).

TASK 4 - THE OPERATION OF JUDICIAL PRECEDENT

Principles Governing Judicial Precedent

Stare Decisis

The Latin term "Stare Decisis" translates to "to stand by things decided" (Rowe and Katz, 2020)

Ratio Decidendi

The “Ratio Decidendi” is the lawful intellectual behind a court’s decision (Samanta, 2021)

Obiter Dicta

“Obiter Dicta” refers to proclamations made by a judge in passing, which do not form part of legal reasoning necessary for the decision in a case (Samanta, 2021)

Distinguishing

Involves highlighting the difference among current case and precedent (Beswick, 2022)

Reversing

Reversing is when higher court overturn decision of lower court (Beswick, 2022)

Binding

A decision is binding when lower court is required to follow the legal principles (Beswick, 2022)

Overruling

Overruling involves a higher court declaring a previous decision no longer good law (Beswick, 2022)

Rules of Judicial Precedent

Stare Decisis

It is the cornerstone of judicial precedent, mandates court to adhere to precedent, ensuring consistency in legal decisions. The case of *Donoghue V Stevenson* (1923). Illustrating the application of Stare Decisis. In this landmark incident, the House of Lords established the duty of caution due by manufacturers to consumers. The decision set a binding precedent, compelling

future courts to follow a similar approach in cases involving negligence and duty of care (Rowe and Katz, 2020; Donoghue V Stevenson, 1923).

Ratio Decidendi

It constitutes the essential legal reasoning behind a decision, forming the binding aspect of a judgment. In the cases of R v Cunningham (1957), the court defines recklessness, establishing a precedent for future cases. The ratio decidendi here clarified the element required to establish recklessness in criminal law. Subsequent cases had to adhere to this legal reasoning, demonstrating the application of the ratio decidendi rule (Samanta, 2021; R v Cunningham, 1957).

Obiter Dicta

This refers to declarations made by a judge that do not contribute to the decision's legal reasoning. The case of Hunter v Canary Wharf Ltd (1997), where Lord Goff's remarks on the right to privacy were considered obiter. While not forming the basis of the decision, these statements can offer persuasive authority in future cases. This case exemplifies the distinction between obiter dicta and ratio decidendi. Showcasing the multifaceted nature of judicial precedent (Samanta, 2021; Hunter v Canary Wharf Ltd 1997).

Differentiating Judicial Decision

Distinguishing

This involves highlighting differences between the current case and precedent to avoid the solicitation of the latter. In the case Balfour v Balfour (1919), the court distinguished it from future cases by asserting that social or domestic agreements lack the intentions to create legal relations. This act of differentiation prevented the precedent from being automatically applied to dissimilar scenarios, showcasing the strategic use of distinguishing (Beswick, 2022; Balfour v Balfour 1919).

Reversing

It occurs when a higher court overturns the decision of a lower court on appeal. An exemplar case is Merritt v Merritt (1970), Where the Court of Appeal reserved the decision of the lower

court by enforcing an agreement made during marital separation. The reversal demonstrated the higher court's authority to correct perceived errors, establishing a new precedent for similar cases (Beswick, 2020; Merritt v Merritt 1970).

Binding

Binding decisions must be followed by lower courts. In *Donoghue v Stevenson* (1923), The House of Lords set a binding precedent by establishing the duty of care owed by manufacturers. This decision became a legal rule that lower courts were obligated to follow in subsequent cases involving negligence and duty of care (Beswick, 2022; *Donoghue v Stevenson* 1923).

Overruling

It occurs when a higher court declares a previous decision no longer good law. A classic example is *R v R* (1991), where the House of Lords overruled its own decision from *R v C* (1990). The overruling was based on evolving societal norms regarding marital rape. (Beswick, 2022; *R v R*, 1991)

Courts Bound by Each Other

Legal Doctrine of Binding Precedent.

In the convoluted web of the British legitimate system, the doctrine of binding precedent serves as a central principle, shaping the consistency and predictability of judicial decisions. (Endicott, Kristjánsson and Lewis, 2023). The case of *Young v Bristol Aeroplane Co Ltd* (1994) stands as a poignant illustration of how operate within this doctrinal framework (*Young v Bristol Aeroplane Co Ltd*, 1994).

Hierarchical Structure

Legal system of UK have is structured hierarchically. It has courts at different levels. Higher courts, like the Court of Appeal, hold authority over lower court. This hierarchical arrangement forms the basis for the operation of binding precedent (Endicott, Kristjánsson and Lewis, 2023)

Young V Bristol Aeroplane Co Ltd (1944)

The legal scenario in this case unfolded against the backdrop of World War II, raising questions about the application of the law wartime. The Court of Appeal, in its wisdom, concentrated a decision that not only addressed specific issues at hand but also established legal principles applicable to similar circumstances (Young V Bristol Aeroplane Co Ltd, 1994).

Binding Precedent Defined:

Decision took in Young V Bristol Aeroplane Co Ltd (1944) become a binding precedent, a legal assertion that subsequent courts are obliged to follow. This obligation stems from the hierarchical structure of the courts, where decisions made by higher courts are considered authoritative (Endicott, Kristjánsson and Lewis, 2023).

Operational Dynamics:

Lower courts, when faced with cases involving comparable legal issues, are bound by the precedent set in Young V Bristol Aeroplane Co Ltd (1944). The operational dynamics emphasize the continuity and stability of legal principles, ensuring that similar cases are adjudicated on established legal reasoning. (Endicott, Kristjánsson and Lewis, 2023; Young V Bristol Aeroplane Co Ltd, 1994).

Adaptation and Development:

While binding, the precedent is not static, it allows for adaption and development in response to changing societal norms, technological advancements, or evolving legal interpretations. However, any departure from precedent requires careful consideration and justification. (Endicott, Kristjánsson and Lewis, 2023).

Impact of ‘Res Judicata’

Legal Finality

Res Judicata operates on the principle of legal finality. Once a court has rendered a final judgment on a matter, the parties involved are barred from bringing the same matter before the court again. This ensures that legal disputes reach a definitive resolution (Semakula, 2020)

Prevention of Double Jeopardy

The doctrine prevents double jeopardy, protecting parties from the burden of facing repetitive litigation on the same issues. This is exemplified in the case of *Arnold V National Westminster Bank plc* (1991). In this case, the House of Lords affirmed the importance of Res Judicata in maintaining the integrity of legal process. (Kumari, 2020; *Arnold V National Westminster Bank plc*, 1991).

Example: Adams V Lindsell (1818)

A historic illustration of the impact of Res Judicata is found in *Adams V Lindsell* (1818). The case dealt with a contract, and the court’s decision was considered final. Subsequent attempts to reopen the matter were barred by the doctrine, showcasing its power to bring a definitive end to legal disputes. (*Adams V Lindsell*, 1818)

Principle of Judicial Economy

Res judicata aligns with the principle of judicial economy by avoiding the unnecessary expenditure of judicial resources on repetitive cases. The case of *Henderson V Henderson* (1843) further exemplifies this, emphasizing the need for parties to bring all relevant issues before the court in the initial proceeding. (Semakula, 2020; *Henderson V Henderson*, 1843)

Equity and Fairness

The doctrine promotes equity and fairness by discouraging parties from attempting to re-litigate issues already determined. In *Johnson v Gore Wood & Co* (2000), the House of Lords emphasized that the doctrine applies not only to issues expressly decided but also to those that could

and should have been raised in the initial litigation. (Kumari, 2020; Johnson v Gore Wood & Co, 2000)

Impact of Distinguishing, Reversing, Binding, and Overruling

Distinguishing:

Impact: It allows a court to avoid the automatic application of precedent. In *Balfour V Balfour*, the court distinguished the case for future scenarios by ruling that social or domestic agreements lack the intention to create legal relation. The impact was a nuanced application of the law to fit the specific circumstances. (Beswick, 2020)

Reversing:

Impact: Reversing a decision brings about a change in legal precedent. In *Merritt V Merritt*, the Court of Appeal overturned a lower court decision, enforcing an agreement made during marital separation. The impact was a shift in legal interpretation and the establishment of a new precedent affecting similar cases. (Beswick, 2020)

Binding:

Impact: binding decisions become legal rules that lower courts must follow. In *Donoghue V Stevenson*, the House of Lords set a binding precedent by establishing the duty of care owed by manufacturers. The impact was the creation of a legal principle influencing subsequent cases involving negligence and duty of care. (Beswick, 2020).

Overruling:

Impact: overruling entails declaring a previous decision no longer good law. In the case of *R V R* (1991), the House of Lords overruled its decision from *R V C* (1990) regarding marital rape. The impact was a significant shift in legal interpretation, acknowledging changing societal norms and discarding a precedent that no longer aligned with contemporary values. (Beswick, 2020)

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