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The Development of the Judiciary in the UK: An Analytical Study.

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Master's Degree in Literature and Civilization**

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Dedication

Praise and thanks to Allah who gave me the strength and patience to complete this research, after a long journey of studies.

I dedicate this modest work to all the beautiful hearts in the world, without exception. To all who my heart-loving persons whom my pen forgot.

Loulou Saida.

First and foremost, praise and thanks be to Allah who gave me the strength and help to complete this research successfully. This work is dedicated to my “ **Dear Parents**”.

To my husband “**Amamra Hamza**” and My children “ **Mohammed EL-Fateh and Sidra** “.

To my “ **Dear Teachers**”.

To my Dear “**Sisters and Brothers**”.

All my **friends**. I hope you all the best.

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Nevertheless all the support we have enjoyed, any errors, omissions, or gaps, whether in content or methodology are solely our own responsibility.

Abstract

This research attempts to conduct an analytical study in order to investigate the development process of the judiciary system in the United Kingdom. In order to conduct this study, three questions have been asked. The first question inquiries on the features that characterize the United Kingdom judicial system before the Constitutional Reform Act of 2005. The second examines the characteristics, which distinguish the new United Kingdom judicial system from the one preceding the reforms. The third seeks to identify the extent of independence allocated to the Judiciary by these reforms. To respond to the previously asked questions, three hypotheses have been formulated. The first proposes that the implementation of the laws of the United Kingdom judicial system before 2005 could lead to a limited independence of the system, and a significant role to the House of Lords. The second hypothesis indicates that the peculiarities of the Constitutional Reform Act 2005 made radical changes in the United Kingdom judiciary system. The third hypothesizes that the implementation of the Constitutional Reforms laws offered more independence to the judicial system from the executive and legislative. In order to investigate the validity of our hypotheses, we used the historical-analytical and comparative methods. The findings of the study revealed that the United Kingdom judiciary system, before the Constitutional Reforms, was subject to the will of monarchs. The Constitutional Reform Act 2005 brought radical changes, including the establishment of a Supreme Court, the abolishment of the House of Lords' jurisdictional power, weakening the position of the Lord Chancellor, and the creation of an Independent Judicial Appointments Commission. Consequently, the United Kingdom judiciary system became more powerful, more independent and more authoritative.

Keywords :The Constitutional Reform Act, The House of Lords, the Judiciary, the Lord Chancellor.

List of Abbreviations and Acronyms

CRA	The Constitutional Reform Act
EU	The European Union
HC	The House of Commons
HL	The House of Lords
HRA	The Human Rights Act
JAC	The Judicial Appointments Commission
NIJAC	Northern Ireland Judicial Appointments Commission
U.K	The United Kingdom

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General Introduction

1-Background of the Study

The Judiciary refers to the judicial authorities of a country, the collective body of judges and the court systems. It is responsible for ensuring people's rights and duties, administering justice according to the laws, resolving disagreements, and also for interpreting laws and legislations which are enacted by the Parliament. Therefore, the judiciary is a fundamental pillar that States rely on to control societies, resolve disputes, protect individuals' rights and liberties and maintain social peace (Garner , 1999 ; Goldman , 2000 ; Gross ,1987 ; Wild , 2006).

Previously, there was no legal system to control the entire country due to the sheltered kingdoms that later formed the UK . When the Anglo-Saxons arrived to the land, they created the Kingdom of England. They, with the Normans, established a unified judicial system for England and its counties. Over the centuries, this judicial system has developed to constitute a great body of laws, multiple-jurisdictional courts; for instance, civil courts, criminal courts and family courts, in addition to multifarious legal procedures, such as a trial by jury (Rivlin, 2012).

For centuries, judges and magistrates' courts were controlled by and dependent on Kings as they were the founders of the English legal system and the court systems. Hence, the Lord Chancellor manipulated the three branches of the UK government namely, the legislative, the executive and the judiciary. At that time, the judicial system and, by logic the system of courts, was serving the monarchs and nobles' interests. This means that the public interest was not given much attention in favor to the Lords and kings. Till 2005, the judicial system, judges and courts were dependent on Kings, and then on the Parliament, and served the elite. That urged the Human Rights Act 1998 to criticize the acts of this system and shed light upon its shortcomings. The UK, since then, enacted the Constitutional Reform Act 2005 for the sake of developing its system of courts; its methods to point judges and

modifying the role of Lords and courts. Thus, this Act was the turning point of the current U.K judicial system(Masterman,2011).

2-Statement of the Problem

In order to control their communities and govern their countries, the English monarchs were obliged to provide a unified legal system and create different judicial procedures through which they could achieve their targets, resolve disputes, exercise real power and maintain social peace. However, people under this system suffered from lots of severe injustice treatments because such a system was dependent on Kings and then on the Parliament, serving their interests, instead of serving people's needs. Consequently, the Labour government of Tony Blair sought to reform that system.

3-Research Questions

This study raises the following questions :

- 1- What are the features that characterize the U.K Judicial system before 2005?
- 2- What distinguishes the U.K judicial system after 2005 from the one before the reforms?
- 3- To what extent did the Constitutional Reform Act offer more independence to the UK judicial system?

4-Research Hypotheses

The hypotheses of this research are formulated as follows :

- 1- The implementation of the laws preceding the 2005 Constitutional Reforms could lead to a limited independence of the judicial system, and a significant role to the House of Lords.
- 2- The peculiarities of the Constitutional Reform Act 2005 could make radical changes in the UK judicial system in terms of structure of courts, functions and the appointment of judges. .

3- The adoption of the Constitutional Reform Act 2005 could allocate more independence and authority to the UK Judiciary.

5-Aims of the Study

This study aims to trace the chronological development of the judiciary in the UK before and after the 2005 Constitutional Reforms. It also seeks to highlight the impact of the House of Lords' authorities and the Lord Chancellor's multifarious roles and responsibilities on the UK judicial system. In addition, it aims to examine the idea of the dependence or independence of the English legal system.

6-Previous Studies

There are several studies done with this topic, but those are the main we selected .In order to get a clear understanding to the development of the UK judiciary system, the great dependence was on historical books and documents ; for instance , a book entitled " Understanding the Law " (2004/2012), written by Geoffrey Rivlin. This book explains how the judiciary began and developed in the UK. In addition, the document of the Constitutional Reforms Act 2005 that illustrates the changes and reforms brought by this act concerning the judiciary' s administration and discipline, and the new structure of the court system. In addition to a book entitled "The Separation of Powers in the Contemporary Constitution Judicial Competence and Independence in the UK " (2011), written by Roger Masterman. This book illustrates the reasons and results of the Constitutional Reform Act 2005. Therefore, depending on the background provided by these and other references, this study has been conducted.

7-Research Methodology

The methodology of research focuses on the methods used to conduct the study. Moreover, it accounts for the tools of data collection, and the process of their analysis.

7-1.Choice of the Method

The study under investigation is qualitative in nature. Since the study is concerned with analyzing the historical data relevant to the development of the UK's judiciary system and the theory of its subordination or independence from the other two branches (the legislative and executive), we find it logical to incorporate the historical, descriptive-analytical and the comparative methods .While the analytical method is more useful and appropriate in explaining, discussing and analyzing the gathered data , the comparative approach is suitable to compare the findings of chapter one to the findings of chapter two. The purpose behind this choice is to obtain convinced responses to the raised questions.

7-2.Data Collection Tools

In order to get comprehensive answers to the questions and to assert the validity of the hypotheses, we decided to gather information from documentary sources, in particular the Constitutional Reforms Act of 2005. The target of this choice is to obtain reliable data that we can rely on as a solid evidence for conducting this study. In addition, to sustain or refute the hypothesis, which claims that “the UK' s judiciary system before the Constitutional Reforms Act of 2005 was dependent on the Parliament, but after the reforms it became more powerful and independent ”.

8-Significance of the Study

It is not the first time research investigates the history of the development of the UK judiciary system. Each research has discussed the subject from a specific angle. This study examines how the judiciary emerged and developed in the UK, the reasons of its change, and the reforms that have been made. Therefore, this study is significant in the way it can be used in a field of the historical analytical studies which is concerned with the UK judicial system.

9-Structure of the Dissertation

This study is organized into three (03) chapters. The first one entitled "The Development of the Judiciary in the UK: A Historical Overview " traces back the roots of the UK judicial system. It provides a historical overview concerning the judiciary's relationship with the Legislature and the Executive powers. It also examines the structure of the court system before the Constitutional Reforms Act of 2005, the sources of law, and highlights the various roles and responsibilities of the Lord Chancellor.

The second chapter entitled "The UK Judiciary after the 2005 Constitutional Reforms", which introduces the UK judiciary system after the Constitutional Reform Act 2005. It presents the main reforms brought by this act, including the establishment of a Supreme Court, and an independent Judicial Appointments Commission. It also introduces the court system of England and Wales, Scotland and Northern Ireland. However, the final chapter entitled " Discussion and Analysis: The UK Judiciary: Dependence or Independence? " focuses on explaining, discussing and analysing the findings of both chapters in a comparative way to reach the idea of the independence of the UK's judicial system after the constitutional reforms.

10-Definitions of Terms

The Judiciary: It refers to the legal system. It is usually associated with judges' decisions and practices. In the other words, the judiciary refers to the judicial authorities of a country, the collective body of judges and the court systems (Garner, 1999).

The House of Lords: It is the Upper chamber in the British Parliament , acted as the highest judicial body in the State, presided over by the Lord Chancellor, and based on the appointed and hereditary principle. Its members include Hereditary and LifePeers, and it has multiple functions and authorities (Dickson&Carmichael ,1999).

The Lord Chancellor :From the old English legal system, he is the Highest Officer of the crown. The Lord Chancellor is a Head of the Judiciary , Head and Speaker of the House of Lords, and a member of the Cabinet and government (Hill &Hill , 2009).

The Constitutional Reform Act 2005 : It is an act which was created by the UK' s Parliament, established a Supreme Court for England and Wales, modified the Lord Chancellor' s role and office, abolished the House of Lords' appellate jurisdiction, and established an independent Judicial Appointments Commission (Constitutional Reform Act 2005 (c 4) , p.1).

The Supreme Court : It is the Highest Court in the UK, established under the Constitutional Reform Act 2005, to replace the Appellate Committee of the House of Lords, and came into being in 1 October 2009 (Easton , 2012).

CHAPTER ONE:

The Development of the Judiciary in the UK : A Historical Overview

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Introduction

The British judicial system is unique in terms of its historical nature, development process, sources of law and the structure. This chapter discusses the historical origins of the judiciary in the United Kingdom (UK). It is divided into three sections, each of which with its own sub-sections. The first defines the term 'Judiciary', and then explores the emergence and the evolution of the judiciary in the UK over time. The second section focuses on the Magna Carta, which is the starting point in the development of the UK's Judiciary. This section also examines the reasons for its creation and its profound impact. Finally, the third section focuses on the UK judiciary before the 2005 Constitutional Reforms, starting with analyzing the framework of the British political power in the UK and its impact on the judicial system, and concluding with the different roles played by the Lord Chancellor.

1.1 The Judiciary: Concept, Power and Role

Broadly, the term judiciary refers to the legal system, but it is usually associated with judges, their decisions and practices. In other words, the judiciary refers to the judicial authorities of a country and the collective body of judges. It is usually the third divisional power in the State, alongside with the Executive and the Legislative branches. The judiciary system consists of judges, the Supreme Court, Courts of Appeal, Judicial Councils, and tribunals. It is responsible for the court system in the country, ensuring people's rights and duties, administering justice according to the laws, resolving disagreements, and also interpreting the laws and legislations which are enacted by the Parliament. Therefore, the judiciary is an essential pillar that States rely on to control societies, resolve disputes, protect individuals' rights and liberties, and maintain social peace (Garner, 1999; Goldman, 2000; Gross, 1987; Susan Ellis Wild, 2006).

1.2 Historical Overview of the Judiciary in the UK

The judiciary system of the UK has evolved over more than one thousand years and it continues to evolve to meet the needs of modern society. However, in early times, prior to the reign of King Alfred the Great, there was no legal system to be applied in the entire country. England was divided into several kingdoms, each of which with its own king and legal system. Transportation and communication were available to few people, and population was small (Gaines ,2015 ; Rivlin , 2012).In addition, most of the public was illiterate and just few people could read and write. Law books were not available, because England was divided into several Kingdoms. Thus, it made it difficult to establish a unified system that would govern the whole country. Many researchers such as Rivlin(2012) and Partington (2012) , on the history of the English judicial system and law have reported that its beginning is unknown compared to other judicial systems, such as the Islamic Judicial System. In contrast, others consider that the origins of its inception returned to the arrival of the Anglo-Saxons to England , where they created the kingdom of England and its counties. Each county was headed by a Sheriff who was an elected officer responsible for keeping peace and enforcing law (Blackwell,2008; Hudson,2018).

1.2.1 Prominent Figures of the UK' s Judiciary

Throughout the ages, Kings of England, particularly Alfred the Great, William the Conqueror and king Henry II have had a major impact on the emergence and the development of the English judicial system.

1.2.1.1 The impact of King Alfred the Great on the Development of the UK's Judiciary System (899-849)

King Alfred the Great is one of the Anglo-Saxon Kings who ruled Wessex (England) from 871 to 899. He significantly contributed to the evolvement of the judiciary in the UK. During his reign, he

encouraged education, culture and literature; however, he was interested in law. As a king and judge, he attempted to establish justice and protect the rights of his people through applying the law. Law-making and its promulgation give the king more power and authority. Therefore, he used the law to state his ideology, politically ideas and ambitions throughout the country (Gaines,2015).

Alfred the Great believed that truth and wisdom are among the fundamental pillars upon which any powerful judicial system is built. Thus, he ordered his judges to seek after wisdom. Moreover, he encouraged them to become literate, wise and skilled in making decisions and resolving disagreements. Because wisdom for Alfred the Great meant a sine qua non for good government ; in other words, it made a man worthy of power and taught him to care for the truth and to look to the common weal rather than to his own personal good . Furthermore, Alfred the Great sought to improve law and order, by appointing judges who possessed certain qualities, including literacy, sharpness of mind, education, and deep knowledge of the laws. Without these qualities, Alfred the Great deemed them unworthy of the office. His wise decisions, achievements, and laws all demonstrated his expertise in literacy and wisdom (Abels,1998 ; Eva March Tappan , 2006 ; Pratt ,2007).

1.1.2.2 The Role of William the Conqueror in the Evolution of the UK ' s Judicial System (1028- 1087)

William the Conqueror was a Duke of Normandy. He invaded England in 1066. Historians such as Abbott (1902), have explained that when the Normans invaded England, they respected the English legal system and local customs. Consequently, they brought with them some of their customs and rules which later contributed to constitute the English Common Law and, thus , to the development of the English legal system. Additionally, William I passed new laws and legislations during his reign, including the feudal system of administration, and the court system (Bates ,2016 ; Hudson , 2018).

Through his invasion , William the Normandy seized Europe's most powerful ruling kingdom which was England. However, he recognized the necessity to strengthen his national system of government there. This was only through making laws that need to be observed, and that could be enforced across the land to keep peace, control communities and practice the real power there .For William the Conqueror, it was well knowing that providing a unified legal system through which he could control the entire country would give additional power to the ruler. For his understanding , this was only by making effective laws which could be enforced across the Land (Hudson , 2018 ; Rivlin , 2012).

According to Rivlin (2004), the English monarchs have historically ruled the external regions of their Kingdoms through Sheriffs and their officials. In order to enforce their power, they had to travel all over the country taking their court and counties with them. However, William I found what was called "The Curia Regis", a Latin term meaning " King's Court" or " Royal Council". It served as both a court of law and a royal household (Bates , 2016) . The Curia Regis consisted of the monarch , church leaders, and nobleman who were appointed by the Crown. William I used the Curia Regis as both a court of law to decide cases and as an instrument to govern the land .Besides , the Council of the Curia Regis acted as an appellate court in the important and complicated cases in the kingdom and gave the king advice on political matters . Through time , it evolved into being the focal point of the royal government and becoming specific in law. Therefore, one can say that most of the UK's current courts can be traced back to William's Curia Regis (Garner , 2004 ; Lowe et al ., 2015).

It is important to indicate that the King acted as a judge in his own court, sitting in a bench to hear cases, which led to the emergence of "the Court of King's Bench". Historically, this institution was a royal court of common law. It dealt with criminal and civil cases. It was presided over by the King himself. During the reign of female monarchs, its name automatically changed to become "

Queen's Bench". With time its judicial functions merged into that of the Queen's Bench Division of the High Court of Justice (Garner , 2004 ; Hill & Hill, 2009).

However, not all kings were good judges. In other words, not every monarch was interested in his system of justice. Thus, in the years that followed, the monarchs delegated their work in the courts to representatives. Kings and their advisers in the King's Council established royal courts and appointed men as judges for the purpose of representing them and deciding cases as they had done before (Rivlin,2012). It is worth noting that justice during the Anglo-Saxon era, and even after the Norman Invasion ,was a mixture of local and royal government. While the King's Court ,Curia Regis, was firstly headed by the King himself, the local courts were presided over by a Lord or one of his stewards (Bates ,2016 ; Rivlin,2004).

1.1.2.3 King Henry II' s Contribution to the Development of the UK' s Judiciary System (1133 - 1189)

King Henry II was the ruler of England from 1154 until his death in 1189. During his reign, he played a crucial role in developing the English legal system, with a particular interest in law and order. Moreover, he was concerned with the judicial administration and judging cases. Many historians, including Rivlin (2012), have argued that unlike his ancestors, King Henry II recognized the importance of a unified legal system controlling the entire country under the supervision and the leadership of the king ,is more appropriate because it would help unify the country, support the monarch to achieve his purposes, and that would give him real power. Therefore, Henry II instituted the foundations of professional judges, comprising members of the clergy and laymen with extensive experience and knowledge in law and adjudication.The appointment of these judges was to uphold the monarch's laws.As a result of this reform, there were eighteen judges in the State, resulting in the creation of the King's Bench judges at Westminster. According to the King's order, five of them would remain in London in order to decide cases there (Harper-Bill & Vincent , 2007).

Moreover, judges were the ones who made the laws and gave decisions in thousands of disputes and cases before the emergence of the law courts . According to Walter Map, "Henry II was discerning in making laws" Ralph Niger, on the other hand, stated that Henry II " abolished ancient laws and every year proclaimed new laws which he called ' assizes' "(Hudson,2018, p.138).

King Henry II issued the Assize of Clarendon in 1166, which allowed the remaining judges to travel to different parts of the country, known as "Circuits", to decide cases and apply the laws set by the judges at Westminster. Furthermore, the system of judges sitting in London developed and became known as "the Assize System" that lasted until 1971. Although the name differs, the current circuit system follows the same method as the assize system. The High Court of Judges also still sits in London for part of the year and then moves across the land to hear cases and resolve disagreements (Rivlin,2012).

1.1.3 The Common Law / Judge- made Law

It was well known to the Anglo-Saxons and to the Normans that law played a significant role in controlling their societies. Law, thus, is one of the fundamental instruments by which communities are regulated, and their members can achieve their targets. Additionally, law is an enforceable body of principles, standards and rules through which justice, peace and order are maintained in the State, and the controversies brought to the courts are decided (Martin ,2006 ; Susan Ellis Wild , 2006). The Common Law , also known as judicial precedent or case law , is a set of laws that derived from judicial decisions rather than from statutes or constitution. It is a system of standards and principles based on the customs of England's early invaders and settlers and evolved through the court King's Court. It is described as the Law of the English ordinary people of England and developed through court cases (Blackwell ,2008 ; Garner ,2004 ; Hudson , 2018 ; Tucker ,2007).

Numerous studies throughout history have presented different perspectives on the origins of the common law. In this context ,F. W .Maitlard considered it as " the product of the genius of Henry II

and his advisers" (as cited in Hudson ,2018, p.15). During his reign, King Henry II enforced the application of laws, replacing many local customary laws with new national ones that were applied and common to all (Elliot & Thomas ,2011; Lowe et al., 20015 ; Martin, 2016; The Judicial Office International Team , 2016).

Besides, thousands of cases have been brought before courts, and it was the judges who played the most essential role in deciding these cases whether between citizens or between citizens and the State. The Senior Courts decided the most important cases, which were then recorded and collected in law reports. Each law report contained the facts of the case, parties involved, and judgment of the court. The judges' decisions, therefore, were like the castle's stones, year by year, case after case, have contributed to the gradual building of the law to build a powerful body of laws known as" Judge-made law ". Judge-made law is a phrase often associated with the term of the common law, meaning a law formulated by judges. In short, the common law (judge- made law) is that body of laws which derived from the English and Norman customs and grew in the hands of the judges where there were no law courts and developed over the centuries through court cases (Reed, 2022 ; Rivlin, 2012).

1.1.4 The Curia Regis' Three Separate Courts

Either in the past or in the present, England's kings knew that administrating people and ruling the country are two sides for the same coin , relying mainly on the establishment of multi-jurisdictional courts and the process of developing new laws in order to achieve justice, meet people's needs, resolve disputes, reinforce the application of laws and remain faithful. Therefore, three courts emerged from the Curia Regis : the Court of Exchequer , the Court of King's Bench and the Court of Common Pleas.

1.1.4.1 The Court of Exchequer

The Court of Exchequer was originally a branch of the Curia Regis and focuses on dealing with equity issues. Its legal principles were based on the common law and its judges were known as barons

. Since its foundation, it handled cases related to royal revenues and collection of taxes. The Exchequer Court in the eighteenth century was only a part of the royal treasury .However, in the sixteenth century and earlier, the Exchequer and the Treasury were co-extensive. The Exchequer was divided into two parts: the Upper Exchequer or the exchequer of account, which handled accounting of the royal revenues, and the Lower Exchequer or the exchequer of receipt, which was responsible for handling cash (Bryson, 2008 ; Turner , 2008).

1.1.4.2 The Court of King's Bench

The Court of King' s Bench Pleas originated from the Curia Regis and was a royal court of common law. It was found initially to follow the monarch in his travels across the land, dealing with civil and criminal cases in which the King was interested. It was created to hear claims, pleas and civil disputes between individuals. Its first origins back to the reign of King Alfred the Great. It was the HighestCommonLaw Court of ordinary justice in criminal cases within the realm in Great Britain, presided over by the reigning monarch. When the sovereign became a Queen, its name automatically changed to "Court of Queen's Bench". During Queen Victoria's reign, and by the Judicature Acts of 1873, its legal authority was transferred to the Queen's Bench Division (Garner,2004; Hill & Hill,2009).

1.1.4.3 The Court of Common Pleas

The Court of Common Pleas originated from the Curia Regis, settling in Westminster Hall. It was a royal court of common law concerned with disputes between private individuals and hearing cases between common citizens. It exercised supervising authority over the local and manorial courts. It remained part of the King's Court until the creation of Magna Carter. Despite the difference and the multiplicity of the local customs in England and its circuits, the judges of the Common Pleas Court

succeeded in imposing a unified system on them. Over time, its functions merged into the Queen's Bench Division (Garner, 2004; Martin ,2006).

1.1.5 The Roots of the Judiciary and the Earliest Judges in the UK

The origins of the current English judicial system can be traced back to the reign of King Henry II. In 1166, the Assize Court was established by King Henry II. This activity led to the imposition of the national laws of the King's Bench in Westminster that replaced the local customs, and leading to the emergence of the common law. Besides, King Henry II founded the Jury System in 1178, composed of twelfth (12) local knights to settle disputes over the property of lands (Easton ,2012 ; Lowe et al.,2015 ; Rivlin ,2004).

Moreover, the County Courts were established under the County Courts Act 1846 in order to deal with civil cases. In 1856, the Central Criminal Court was also allowed to hear cases outside its legal authority to ensure a fair trial and avoid delays. Additionally, the High Court and the Court of Appeal for England and Wales were established under the Judicature Act of 1873. However, the Court of Appeal was divided into two under the Criminal Appeal Act 1907 in line with the foundation of the Criminal Division of the Court of Appeal, and in 1956 the Crown Courts were also established (Lowe et al.,2015 ; Martin, 2016).

1.2 The Development of the Judiciary in the UK : Magna Carter, Reasons and Results

Magna Carter, also called the Great Charter of the Liberties of England, is a name given to a document signed by King John on 15 June 1215 at Runnymede under the pressure of his rebel barons. The main reasons behind the signature of this Great Charter were King John's injustice policies, his abuse of his position as a Lord of England, and his highly aggressive policy towards the church,

particularly his dispute with Pope Innocent III. However, the primary cause was the high level of taxes King John demanded from his barons in order to finance his new military campaigns against France to regain the areas he lost. The Charter was intended to promote peace between the monarch and his barons, prevent civil war, as well as to limit the king's authority and preserve the traditional privileges of the barons. The Great Charter emphasized two basic principles : the first one is that the king and his government have to rule following the customs and the established laws, while the second one is that the monarch must govern by taking the advice of his nobles and powerful barons (Carpenter ,2015 ; Christianson ,2015 ; Drew ,2004 ; Starkey, 2015).

The significance of this document is embodied in the promotion of the rule of law, which means that no one, even the king, is above the law, ensuring feudal rights, emphasizing the individual's liberties, restating the English law, confirming the old customs and liberties of London's city and the other towns, defending the rights and liberties of the English church, and highly emphasizing the right to a fair trial and justice which later on the British Parliament considered it as a guarantee of a trial by jury. According to many historians such as Christianson (2015), Magna Carter significantly contributed to the development of the English Common Law and the evolution of the English Parliament, in addition to the beginning of the House of Commons (HC) (Gibson- Morgan &Chommeloux , 2016 ; Hudson , 2018).

Likewise, the Great Charter regulated the relationship between the monarch, barons and the church. Through the years, Magna Carter became a symbol of justice, fairness, and human rights as it was the first codification of English civil liberties. It established that the king is also subject to the law. It set the cornerstone of the principles of liberty, justice, equality and the rule of law in England and then in many countries worldwide. It is widely regarded as the foundation of democracy in England. When the Human Rights Act of 1998 incorporated the European Convention on Human

Rights into British law, it included the three remaining clauses of the Great Charter, including the right to a fair trial (Christianson,2015 ; Carpenter, 2015 ; Starkey ,2015).

1.3 The Framework of The UK's Judiciary before 2005 Constitutional

Reforms

Before the 2005 Constitutional Reforms, the UK' judicial system was dependent to the Parliament, which composed of two chambers: the House of Lords and the House of commons. Law Lords sat in the Legislature and served as the Highest Court of Appeal in the UK (Paterson , 2013).

1.3.1 The UK's Political Power Framework

Through their writings, historians such as Foster (2006) have shown that the British legal system is closely related to the political one; that is, the English political system has imposed its presence over the judicial entity in the UK. For centuries, judges and magistrates' courts were controlled by and dependent on the kings, the church and the nobility. Researchers stated that judges were heavily influenced by the State's political powers. For instance, some of them reported that the courts during the reign of King John decided cases according to his desire and orders, not according to the laws. Besides, Lords and ministers, because of their traditional privileges and positions, possessed a political power which enabled them to interfere in judicial decisions (Masterman , 2011; Turner,2008).

Prior to the 2005 Constitutional Reforms, judges' decisions were often influenced by political pressures, personal preferences, fear or favoritism of any party to the action. Even the common law emerged as " the product of a particular struggle for political power" (Slapper & Kelly,2016, p.5). In sum, the judiciary was a subordinate branch in the British political system compared with the executive and legislature powers. The courts exist to interpret, within specific limits, the legislation

enacted by the Parliament. However, under the Doctrine of Parliamentary Sovereignty, judges lack the substantive power to overturn any law passed by the Parliament as contrary to the provisions of the constitution or any other supreme legal body (Jones & Norton , 2010 ; Young , 2010).

1.3.2 The Relationship of the Judiciary with the Executive Power

The Executive Power is a branch of the government responsible for implementing the laws and policies set by the Parliament. In the UK, it stands at the heart of the British government and is the fount of policy- making in Britain. The British government exercises it on behalf of and with the consent of the monarch. Thus, it comprises the Crown, and the government, including the Prime Minister and the Cabinet Ministers. Since the Lord Chancellor is a Senior Cabinet Minister, he is, therefore ,a member of the executive branch, in addition to his position as Head of the Judiciary and the most senior judge in England. For centuries, the executive had a political power reinforced by the principle of Parliamentary Sovereignty, through which it controlled the English judicial system. This political power came to be exercised by the Prime Minister and the Cabinet (Jones & Norton ,2010 ; Slapper & Kelly ,2003 ; Young ,2010).

1.3.3 The Judiciary's Relationship with the Legislature (HL)

In the UK , the legislative branch is the supreme legal authority that can create or end any law. It is characterized by its supremacy, even over the Constitution. The British Parliament is the dominant legal and political power in the UK's Constitution. It comprises two chambers: the House of Lords (HL) and the House of Commons (HC). Over centuries, the House of Lords was the Upper Branch in the British Parliament, led by Lord Chancellor and based on the appointed and hereditary principle , in addition to that, it was the dominant with its multiple functions. Legislatively, the House of Lords played many roles, including acting as revising body, overseeing the European Community Legislations, examining bills from the House of Commons, proposing amendments to bills, in addition

to checking the government's work and participating in making and shaping laws with the Commons. The Judiciary, also headed by the Lord Chancellor, served as both the Supreme Court and the Highest Judicial Council in the UK. Furthermore, the twelve Law Lords (Lords of Appeal) sat in the Legislature and served as the Highest Court of Appeal in the State. However, judges do not have the right to stand in Parliamentary Elections. Instead, they interpreted within specific limits, the legislation of the Parliament and were responsible for developing the Common Law (Dickson & Carmichael, 1999 ; Jones & Norton , 2010 ; Masterman , 2011 ; Paterson , 2013).

1.3.4 The Structure of the UK Court System before the CRA of 2005

This section introduces how the UK court system was structured before the 2005 Constitutional Reforms.

1.3.4.1 The Structure of the UK's Court System

Before the establishment of the UK's Supreme Court, the twelfth Law Lords (Lords of Appeal) sat in the House of Lords, deciding the different cases in front of the courts. The House of Lords acted as the Highest Judicial Council, the Appellate Committee, and the Supreme Court in the UK. It served as the Final Court of Appeal for the UK in civil cases and for Northern Ireland, Wales and England in criminal cases. The decisions of the House of Lords were the final in all the cases. Thus, the courts were bound to implement them (Masterman , 2011 ; Paterson , 2013 ; Slapper & Kelly, 2016).

Before the 2005 Constitutional Reforms, the structure of the UK's Court System was as follows : the House of Lords served as the Supreme Court of the UK. Then, the Court of Appeal under the Criminal Appeal Act of 1907 was divided into two, one for the Civil Division, and one for the Criminal Division. Under the Court of Appeal (civil division) , there are two main courts: the High Court of Justice that consists of the Queen's Bench Division, the Chancery Division, and the Family Division and the County Court. While under the Court of Appeal (criminal division), there are three major

courts: the Crown Court which is the Highest Criminal Court in England and Wales ,and then Divisional Court which is a special branch of the Queen's Bench Division of the High Court of Justice in England and Wales , and lastly the Magistrates' Court as the lowest criminal court in England and Wales. This chart shows how the court system in the UK was operated before the 2005 Constitutional Reforms(Dickson&Carmichael,1999 ; Jones & Norton,2010 ; Lowe et al., 2015 ; Tucker,2007).

1.3.4.2 The Court System in England and Wales before 2005 Constitutional Reforms

Before the Constitutional Reform Act of 2005 ,the court system in England and Wales was as follows : the House of Lords served as the Highest Court in England and Wales. Then, the court of Appeal which was divided into two, one for the civil division, and one for the criminal division. under the Court of Appeal (Civil Division), there are the High Court which composed of " Queen's Bench Division ", " Chancery Division ", and " Family Division ", and then the County Court. Whereas under the Court of Appeal(Criminal Division) ,there are the Crown Court, Divisional Court ,and the lowest one is the Magistrates' Court (Dickson & Carmichael,1999; Jones & Norton,2010).

1.3.4.2.1 The Court of Appeal

The Court of Appeal covering England and Wales is located in London. Under the Criminal Appeal Act of 1907, it was divided into two ,one for the civil division and one for the criminal division. It represents the appeals stage between the lower courts and the House of Lords which was acting as the Supreme Court (Lowe et all., 2015; Martin,2016; Slapper & Kelly, 2016).

1.3.4.2.2 Court of Appeal (Civil Division)

Court of Appeal for civil division is an English court which mainly deals with civil cases. Its jurisdiction is to hear appeals of decisions which made by the courts under its authority (Foster , 2006 ; Martin , 2016).

1.3.4.2.3 High Court of Justice

The High Court of Justice of England and Wales is played the role of the intermediate between the County Court and the Court of Appeal . It includes three administrative sections which are " Family Division " , " Queen's Bench Division " , and " Chancery Division " . Each division involves a High Court of Judges in which they hear cases.Those judges are highly qualified in the judiciary . The High Court of Justice is located in London, but it has several local branches in the main cities of England and Wales. It deals with the most significant civil cases as well as some criminal ones (Martin,2016; Slapper & Kelly, 2016).

1.3.4.2.4 Queen's Bench Division

Queen's Bench Division is the main court of common law in England and Wales. Its origins back to the royal courts. It consists of specialist courts in dealing with civil cases and some other criminal ones, particularly tort and contract cases, in addition to hearing special case ,involving the application for judicial review (Martin,2016).

1.3.4.2.5 Family Division

Family Division is a branch of the High Court of Justice of England and Wales. It deals largely with family and domestic matters and cases ; for instance, divorce ,family law, marriage, expenditure and the welfare of the children of the family (Hill&Hill,2009; Martin, 2016)..

1.3.4.2.6 Chancery Division

The Chancery Division is also a branch of the High Court of Justice of England and Wales. Its origins back to the Court of Chancery. Its name is derived from the name of the Lord Chancellor, as

he was its Chief. It includes eighteen judges. Judges in the Chancery Divisional Courts are called chancery judges. It composes of specialized courts which basically deal with subjects as property, financial matters, revenue law and partnership (Martin,2016 ; Slapper & Kelly, 2016).

1.3.4.2.7 County Courts

The County courts established in the year 1846, administered by two major judges ,a circuit judge and a district judge. Its main function is to hear small cases and fast- track cases, in addition to dealing with such matters as the fatal accidents and defamation cases (Martin,2016 ; Slapper & Kelly, 2016).

1.3.4.3 Court of Appeal (Criminal Division)

The Court of Appeal for criminal division is an English court which deals essentially with criminal cases. For a long time, there has been no organized system of appeals in criminal cases. Its main function is reviewing the decisions which issued by the different administrative bodies and the lower courts(Martin,2016).

1.3.4.3.1 Crown Court

The Crown Court is the high criminal court in England and Wales which deals with the most significant criminal cases. It established in 1956 for the first time, however the history of the Crown Court back to 1971 when it became responsible for the criminal jurisdiction of both the Quarter Sessions and the Assize Courts. The court's functions are under the control of either a local judge or a judge from the High Court of Justice. In the Crown Court , there is a jury of twelve judges whose their function is to decide the particular case based on the facts ,and giving the appropriate sentence or judgment. The Crown Court deals essentially with criminal cases, including offences against people and property , such as tort (Garner , 2004 ; Lowe et al., 2015).

1.3.4.3.2 Divisional Court

The Divisional Court is a particular branch of the Queen's Bench Division of the High Court of Justice in England and Wales. It deals basically with appeals on matters of law which brought from the Magistrates' Court , in addition to other appeals that sent from the Crown Court in criminal law. However, the Divisional Court can sometimes hear cases from the County Court in civil law. As well as it can decide legal matters of an administrative and constitutional nature. It exercises supervising authority of the High Court over the inferior courts in the country (Martin,2006 ; Martin, 2016).

1.3.4.3.3 Magistrates' Court

Magistrates' Court is considered as the lowest criminal court in England and Wales, in which the majority of crimes, but mainly minor or summary cases, are heard and decided by a branch of local magistrates without a jury. The Magistrates' Court is composed of two to seven judges or one district judge .Its judicial authority is limited in comparison with the other.They deal with small claims and minor matters. In addition to that, the Magistrates' Court can determine some civil cases, such as marriage cases, divorce and licensing (Blackwell , 2008 ; Martin , 2006).

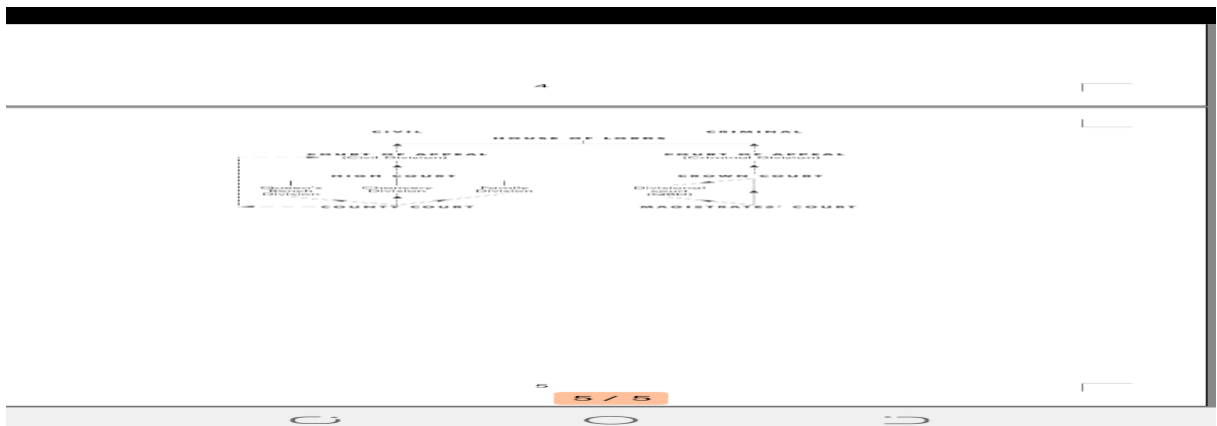


Figure 1.1Chart of the United Kingdom's Court System before the Constitutional Reforms of 2005 (Encyclopaedia Britannia,2020).

1.3.5 The Sources of Law

The UK has no codified constitution ,therefore it derives its legislations and laws from several ancient historical documents, such as Magna Carter .The law sources, thus, differ and vary , including the Common Law, the Statute Law and the European Union Law.

1.3.5.1 The Common Law

The Common Law is the oldest source of law in the UK. It is a system of principles and rules based on the old customs of the early invaders and settlers of England, written down by judges and evolved through court cases.It is different in nature from the other sources of law. Throughout time, the common law became as a basic reference for judges in the UK's law courts to decide cases, interpret the legislations of the British Parliament and resolve different disputes (Hill & Hill, 2009 ; Hudson, 2018 ; Partington ,2012).

1.3.5.2 The Statute Law

The Statute Law refers to the law that the English Parliament created throughlegislation . Originally, Kings who were responsible for its creation .However, the power of Parliament gradually increased and became the most powerful legislative authority in the State. Therefore, the Statute Law became supreme, even over the common law, and applicable for the UK as a whole (Slapper & Kelly, 2003 ; Susan Ellis wild , 2006).

1.3.5.3 The European Union Law

After the UK joined the European Union (EU), the EU laws have become a significant component of British law. This implies that English domestic law is subject to the influence of EU laws, and judges have to apply these laws in cases where they conflict with the Acts of the Parliament (Martin ,2016 ; Slapper & Kelly, 2016).

1.3.5.4 The Human Rights Act 1998 and its Impact on the United Kingdom's Judiciary

The Human Rights Act 1998 incorporated the European Convention on Human Rights into British law, making it illegal for any public authority in the State to act against the laws of the convention. When the Human Rights Convention was incorporated into British law, it also included the remaining clauses of Magna Carta, involving the right to a fair trial and justice. Thus, the British government becomes obliged to follow the law and do procedures. The European Convention on Human Rights affected the British judicial system in two ways, as the courts in England and Wales became obligated to interpret legislations in accordance with this convention. The Parliament also became obligated to amend any law enacted by the House of Lords that conflicted with this convention's clauses. The courts consider the opinions, decisions, and declarations of the European Court of Human Rights while deciding cases in order to avoid any conflicted decisions by the UK's Courts (Gordon & Cavendish Publishing Limited, 2000 ; Hoffman & Rowe , 2013 ; Paterson, 2013 ; Young, 2010).

1.3.6 The Roles of the Lord Chancellor

Lord Chancellor, also known as the Lord High Chancellor and previously referred to as "the Keeper of the King's Conscience", held the highest judicial officer in England. He is involved in the three main arms of the State and holds a key position in each. Lord Chancellor is appointed by the Crown on the advice of the Prime Minister. He is a Head of the Judiciary, Head and the Speaker of the House of Lords, a Senior Judge, and a member of the Cabinet and government. Furthermore, Lord Chancellor has the authority to appoint magistrates and recommend higher judicial appointments due to his position as a Government Minister. He is a member in the British Parliament and has a seat in the Cabinet, a member in the executive branch. In addition, Lord Chancellor has the capacity to oversee such matters as human rights, law reform, the administration of the courts, and the Community

Legal Service. Therefore, he combines the judicial, executive and the legislative functions (Martin, 2006 ; Slapper & Kelly , 2016).

Conclusion

This chapter presented a comprehensive historical overview of the development of the judiciary in the UK. It focused initially on the most significant historical events that the UK has gone through, including the arrival of the Anglo-Saxons and the Norman Invasion of 1066, in addition to the different approaches adopted by the British Kings and governments to control their communities, involving law and order. Moreover, this chapter also examines the significance and the contribution of Magna Carter in the development of the judiciary in the UK. Besides, it explored the framework of the judiciary in the UK before the Constitutional Reform Act 2005, as well as the impact of the UK's political power on it. Finally, the chapter discussed the multifaceted roles of the Lord Chancellor within the UK judiciary system.

CHAPTER TWO :

The UK Judiciary After 2005 Constitutional Reforms

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Introduction

The Constitutional Reform Act 2005 is an act of the U.K parliament that made serious changes concerning the modification of the Lord Chancellor's role and office, the establishment of a Supreme Court, and the abolishment of the appellate jurisdiction of the House of Lords. The second chapter, thus, examines the UK judiciary system after the 2005 Constitutional Reforms, with a particular focus on its characteristics and the new structure of the UK's court system, including the jurisdictions of each court. Finally, this chapter focuses on the structure and jurisdictions of England, Wales, Northern Ireland, and Scotland.

2.1 The Constitutional Reform Act 2005

The Constitutional Reform Act 2005 is an act of the United Kingdom Parliament. It provides for: Firstly, making modifications concerning the Lord Chancellor's office and responsibilities, where he was replaced by the Lord Chief Justice. Secondly, the establishment of a separate Supreme Court of the UK in order to take out the judicial role of the Law Lords from the Upper House. Thirdly, it abolishes the House of Lords' appellate jurisdiction. Fourthly, it establishes an independent Judicial Appointments Commission. Fifth, determining the jurisdiction of the Judicial Committee of the Privy Council and the jurisdictional functions of its president, in addition to other reforms and changes concerning the judges' appointments, the judiciary's discipline and other connected purposes (The Constitutional Reform Act 2005 (C 4) p.1).

The Constitutional Reform Act (CRA) of 2005 constitutes a significant legislative measure in the UK, eradicating and modernizing various constitutional facets, with particular emphasis on the judiciary. On the 24th of March, 2005, an enactment was implemented, creating numerous notable alterations to the system of judiciary.

CRA brings out radical changes and aspects. First, it created the Supreme court which considered as the highest court in the UK rather than the HL. Second, it also creates a new Judicial appointment which cares about choosing judges through Judicial Appointments Commission (JAC). The JAC is a independent system that cannot be affected by other powers. Finally, it reconsiders the role of the Lord of Chancellor and his office (Barnett, 2019).

2.1.1 The UK Judiciary System after 2005

The UK government addressed the absence of a formal and independent judicial system by enacting constitutional amendments that prioritize the public needs and political functions. The Constitutional Reform Act 2005 was one of the changing decisions that made significant changes in UK judicial system. In fact, the Constitutional Reform Act was passed in 2005. This legislation introduced three main changes, including modifying the role of the Lord of Chancellor's office, creating the Supreme Court, and abolishing the House of Lords' appellate power.

Firstly, the Lord Chancellor was a cabinet minister. He was responsible for the judicial appointments system, investigating complaints against judges, and imposing discipline. Also, he could refuse junior judges and provide and run the Court Service. An extra ordinary breach of Separation of Power requires more, not less engagement by the judiciary with the other branches of government (Hazell,2014).

Therefore, the Constitutional Reform Act 2005 cancelled the role of the Lord Chancellor as a Head of the Judiciary, but the office remained. It set out the functions to be transferred to the Lord Chief Justice as a Head of the Judiciary, in line with the Concordat agreement signed in 2004. As a result, the Lord Chief Justice has become a Head of the Judiciary in England and Wales and responsible for training, guidance and deployment of judges and for representing the views of the judiciary of England and Wales to the minister and Parliament. Moreover, the pre-reform role of the

Lord Chancellor was notable for its distinctiveness, as it encompassed significant functions in legislative, executive, and judicial powers . Thus, the act removed of the Lord Chancellor from his position as the Head of the Judiciary, with numerous obligations transferred to the Lord Chief Justice (Jeffrey Lionel Jowell et al., 2015).

Secondly, creating the Supreme Court was a consequence of removing the judicatory powers of the House of Lords and giving broad judicial competence to the new court. The Supreme Court is the highest court in the UK of Great Britain and Northern Ireland, whose jurisdiction corresponds to what formerly fell within the range of competence of the House of Lords. It is also the final court of appeal for all UK civil and criminal cases from England, Wales, and Northern Ireland (Young, 2021).

The Supreme Court plays a vital role in the constitutional system of government. First, it hears appeals on debatable points of law of general public importance. Second, it focuses on cases of the greatest public and constitutional significance. Third, it preserves and develops the role of the highest court in the UK as a leader in the common law world (Mikuli& Fox,2017). The cancellation of the House of Lords' appellate power has resulted in a more independent, impartial, and integrated judicial system that is separate from the legislature(Hazell,2014).

2.2 The Structure of Court System in the UK

The Court System is composed of multiple courts, each of which with an active role in achieving justice. In this perspective , courts are the final arbiter between the citizen and the State, and are , therefore, an integral part of the constitution. In the UK, there are numerous types of courts that can be classified according to their jurisdictions, such as criminal and civil courts, general and limited jurisdiction, appellate and trial courts.

2.2.1 The Supreme Court

The Supreme Court is the highest Court of Appeal for civil and criminal cases in the UK. It was established under the Constitutional Reform Act 2005. In October 2009, the new Supreme Court opened to achieve a clear separation between the upper House of Parliament (HL) and the UK' Senior judges, increasing transparency between Parliament and courts, and asserting the independence of the Law Lords. The Supreme Court comprises of twelve judges Known as "Justices of the Senior Court", they hear about 70 cases each year, These cases are relevant to matters of constitutional relevance and those that involve the issues related to human rights. This court prime function is considering appeals concerning significant legal matters affecting the general public (Holland & Webb, 2016).

2.2.2 The Court of Appeal

According to Quirk et al. (2010), it is the second-most significant court in the hierarchy of justice in the UK. It examines appeals coming from lower courts and some tribunals. The Court of Appeal has two divisions; the Civil Division and the Criminal Division. The Civil Division considers and decides on appeals in cases that pertain to civil matters like disagreements related to contracts and issues related to families. The other division, the criminal, addresses appeals related to convictions or sentences in criminal cases. It has some 38 Lords justice of Appeal who sit as a panel of three to hear cases because the workload of this court is large compared to others. Thus, it is composed of distinguished judges known as Lord and Lady Justices of Appeal, identified for their vast expertise in specific fields of law.

2.2.3 The High Court

The High Court is the third division of the UK 's new court system. It is authoritative over both civil and criminal matters. It endeavors to adjudicate, intricate and salient cases necessitating a robust level of proficiency and attends to a vast spectrum of legally cognizable issues, encompassing disputes arising from contractual obligations, family law litigations, and administrative law contentions.

Hence, The High Court comprises three distinct divisions, the Queen's Bench Division, the Family Division, and the Chancery Division. Each divisions has an independent specialized jurisdiction. Accordingly, each is responsible for managing cases within its respective jurisdiction. In this court, judges are called "Justice". They oversee court proceedings, render rulings on legal issues, and administering cases within their purview. Furthermore , the High Court is composed of three divisions, the Chancery Division, the Family Division, and the Queen's Bench Division. It has around 110 high court judges.Their main functions are to hear some appeals such as criminal appeals from the Magistrates' Courts and criminal trial in the Crown Court (Elliott& Quinn, 2018).

2.2.4 The Crown Court

The Crown Court is the primary court system that handles serious criminal cases, such as murder, rape, and robbery. Also, it handles requests for reconsideration from lower courts. Its judges are called “circuit judges”, who are responsible for overseeing the Crown Court. The criminal cases are heard in the Crown Court, and the verdict is determined by a group of public members known as the jury. In addition, the County Courts deal with more complex cases and also hear appeal from the High Court. The judges in these courts are known as " Circuit and District Judges" (Elliott& Quinn, 2018).

2.2.5 Magistrates' Courts

Magistrates' Courts are the smaller courts in the UK judicial hierarchy. It is responsible for minor crimes, small offences, and some non-serious legal issues. The Magistrates are volunteers from the community who are in charge, but they are not professionally trained judges. In criminal cases, judges called magistrates decide whether or not a particular citizen is guilty and the ways of punishment should be taken. In all,the Magistrates' Courts deal with civil and family matters, which are usually heard by a panel of three magistrates (Barnett, 2019).

2.2.6 Divisional Court

According to Barnett (2019), the Divisional Court is a distinctive division of the High Court of Justice in England and Wales, endowed with specific legal responsibilities and functions. The present topic encompasses diverse matters such as legal issues, petitioning superior tribunals for the reassessment of verdicts, and contentions with subordinate and specialized courts. The Divisional Court primarily serves as an appellate court that adjudicates appeals originating from lower courts and tribunals. This study scrutinizes the decisions made by said collectives to assess whether or not they have committed legal errors. The Divisional Court, a pivotal legal institution, is tasked with scrutinizing the validity and legality of governmental decisions. The aforementioned action entails evaluating the extent to which governmental resolutions conform to regulatory statutes and ordinances. Prominent members of the judiciary, comprising High Court judges and Lord Justices of Appeal, typically preside over the Divisional Court as a joint entity. Judges' aptitude and expertise enable them to meticulously and comprehensively examine the cases presented to the court

2.2.7 The County Court

The judicial body of the County Court, functioning under the legal framework of England and Wales, provides a platform for the settlement of an extensive variety of legal conflicts. Possible paraphrased text : Various kinds of conflicts may arise, such as those related to agreements, payment collection, family relations, and residential problems. Despite the passing of the Constitutional Reform Act 2005, the County Court has maintained its pivotal position in the judicial hierarchy and remained unaffected by the legislative changes.

The County Court, which serves as a legal decision-making authority, is widely established throughout several districts in England and Wales. It has the ability to make judgments only based on events taking place within a specific area. Their services strive to ensure fair treatment for both

individuals and businesses within a close range. The task of overseeing legal proceedings in the County Court typically falls on a circuit or district judge within the country's judiciary system. They possess the authority to make decisions on matters of justice and fairness based on legal principles, supervise legal proceedings, and guarantee impartial treatment of all parties involved. The County Court has the authority to settle civil lawsuits, in which legal disagreements between individuals or organizations are addressed. Legal proceedings may involve various subjects, such as financial affairs, orders to prevent specific behaviours, or disagreements revolving around the transfer of possession or authority over assets among conflicting parties. This implies that a court is authorized to handle only financial complaints that are within its scope of power (Barnett, 2019).

2.2.8 Tribunals

Jeffrey Lionel Jowell et al. (2015) ,within the United Kingdom, there exist particularized entities referred to as tribunals. They address discrete varieties of legal issues and contribute to resolving disputes through a distinct mode of operation. They offer a method of resolving problems that is not overly complex and readily understandable. The Constitutional Reform Act of 2005 had a moderate impact on the structure and function of tribunals, yet it served as a reminder of their vital significance within the legal framework.

Each court deals with only one type of legal issue, such as jobs, people coming to a new country, money from the government, taxes, and land. These special courts listen to cases about their certain subjects and use the right laws. These special courts deal with cases about particular things and use correct laws to decide. Expert panels are groups of people who are very smart and know a lot about a specific area of the law. They need to consider all types of information before deciding. Administrative Justice means solving disagreements by using tribunals instead of going to

court, which is simpler and less expensive. Their main aim is to ensure that everyone who is part of a fight or argument is treated fairly and equally (Forster, 2006 ;Slapper& Kelly, 2016)

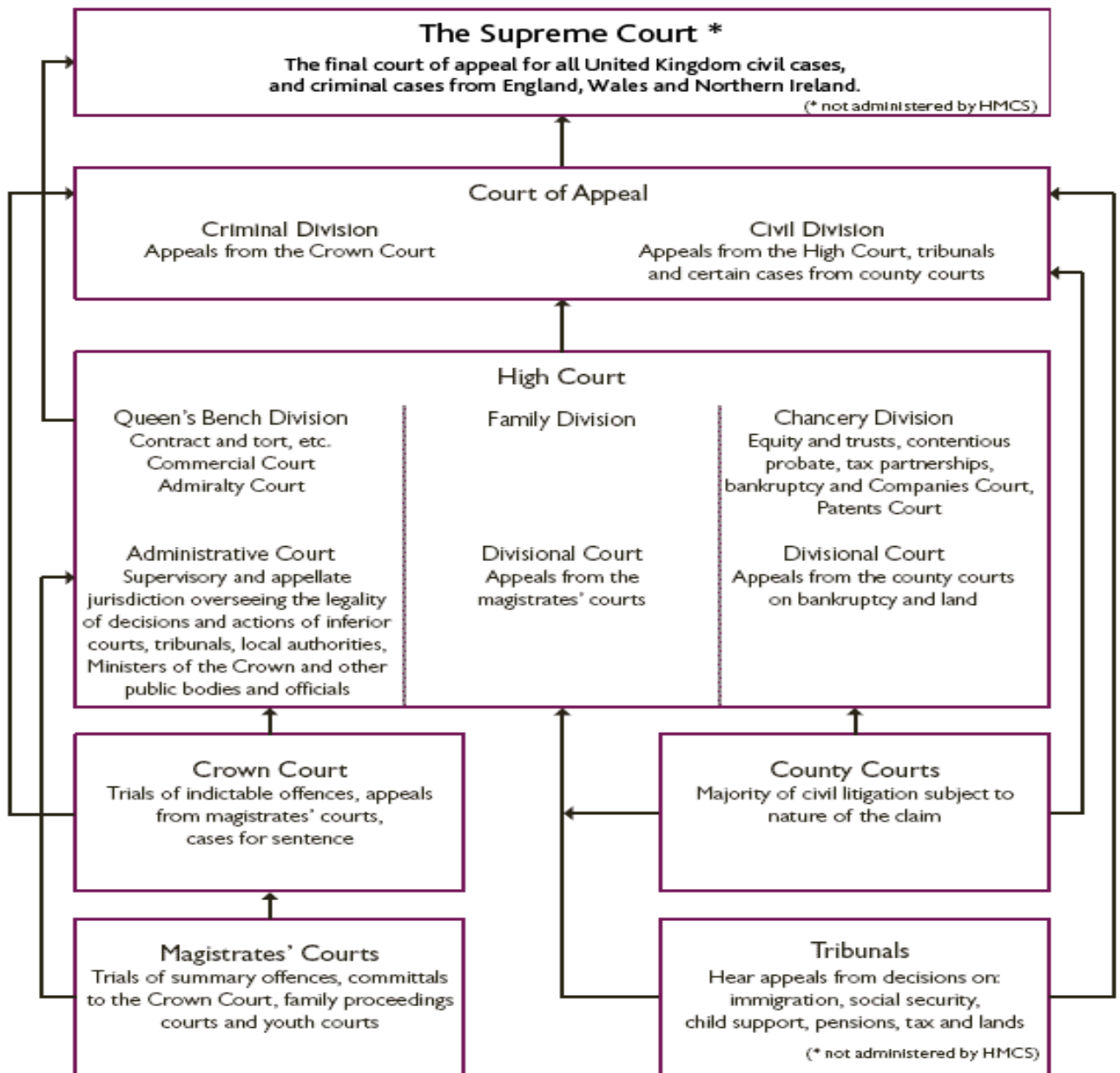


Figure 2.1 A detailed chart of UK's court system (Lowe et al., 2015, p. 149).

2.3 The UK Judiciaries after the Constitutional Reform Act 2005

Historically, the UK has three (3) separate legal systems due to its existence as a state with many separate jurisdictions. Therefore, England and Wales have one system, Scotland has another, and Northern Ireland has a third.

2.3.1 Judiciaries of England and Wales

The court structure of England and Wales consists of the Supreme Court, the Court of Appeal, the High Court, the Family Court, the County Court, Tribunals and the Magistrates' Courts. Firstly, the Supreme Court only hears appeal from the following courts in each jurisdiction. However, an Appeal Court cannot hear a case except if a relevant order has been made in a lower court.

Secondly, the Court of Appeal is divided into two divisions: the civil division considers appeals on civil matters, while the criminal division considers appeals on criminal matters. Thirdly, the High Court is split into three distinct divisions: first, the Queen's Bench Division deals with a broad scope of common law cases; it is responsible for some of the low courts.

Second, the Chancery Division deals with a wide range of civil cases. It can hear the following type of cases such as: land and property disputes, mortgages, Trust, administration of estates and probate matters bankruptcy, and partnerships and company matters intellectual property. Third, the Family Division deals with complex family law cases. It has exclusive jurisdiction to hear international child abduction cases and cases that involve inherent jurisdiction.

Fourthly, the Family Court deals with the family law cases that typically involve the following matters: application for divorce, dissolution or nullity, cases concerning financial or childcare arrangements following relationship breakdown, and application for adaption. Fifthly, the County Court deals with civil matters, including companies trying to get their money back, individuals claiming indemnity for injuries, and landowners seeking orders to prohibit trespassing. Sixthly,

Tribunals consider some civil cases relating to immigration, asylum, tax, social entitlement and property cases. Seventhly, the Crown Court deals with criminal law cases, for example, murder, rape, and robbery. It also deals with appeals against a magistrates' court conviction or judgment

Finally, the Magistrates' Court deals with criminal cases known as "summary offences", including car crimes, minor criminal damage, and common assault, it does not cause serious injury). It also deals with some civil matters, which covers family and related cases, licensing, debt collection and a variety of orders related to children (Lowe & Das, 2015).

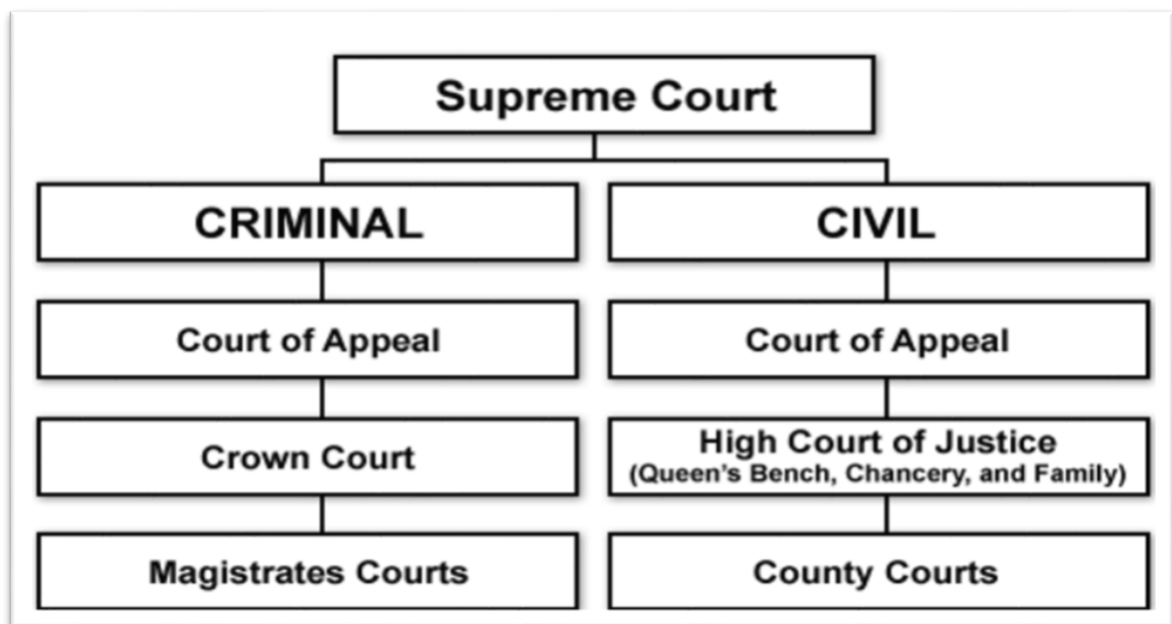


Figure 2.2: The Court System in England and Wales (wiki)

2.3.2 The Judiciaries of Northern Ireland

Like the rest of the UK's States, Northern Ireland was a part of the courts system of Ireland. After partition, it has a separate legal system comprising the Northern Ireland Supreme Court, the Court of Appeal, the High Court, the Crown and the County Court, and the Magistrates' Courts. The judges of these courts are appointed by the independent Northern Ireland Judicial Appointments

Commission (NIJAC). Firstly, the highest court in Northern Ireland is the Supreme Court that hears appeals from the Court of Appeal. Secondly, the Court of Appeal deals with appeals from the High and Crown Court, the type of these appeals are civil and criminal matters. It also deals with appeals from the County and Magistrates' Courts.

All cases normally heard by three judges and their decisions may be appealed to the Supreme Court. Thirdly, the High Court hears complex civil cases and appeals from the County Court, which are heard by a judge. In this context, decisions may be appealed to the Court of Appeal. Besides, the High Court is divided into three divisions; Chancery Division hears cases such as wills and companies, title to land, and trust. On the other hand, Family Division hears cases like matrimony, adoption, and children in care. Moreover, Queen's Bench Division deals with other civil law cases. Fourthly, the County Courts hear civil and criminal cases from the Magistrates' Court, such as a scale of land and partnerships, equity matters, trusts and estates, negligence, and trespass. Appeals are heard by a County Courts judge and their decision may be appealed to the appropriate division of the High Court.

Fifthly, the Crown Court deals with criminal cases, including those related to terrorism. In such cases, a judge presides without a jury, while not terrorism cases are heard by a judge with a 12 person jury. Appeals from the Crown Courts are heard by a High Court and their decisions may be appealed to the Court of Appeal. Finally, the Magistrates' Courts deal with all criminal cases but serious criminal matters are transferred to the Crown Courts after a preliminary hearing. It also handled civil cases, including family proceeding. Both civil and criminal cases are heard by one magistrate, who is legally qualified. It is important to note that decisions of the Magistrates' Courts are subject to appeal by the County Court (Anthony, 2014,). Thus, the following chart provides some details about the Northern Ireland's Courts structure and their jurisdictions.

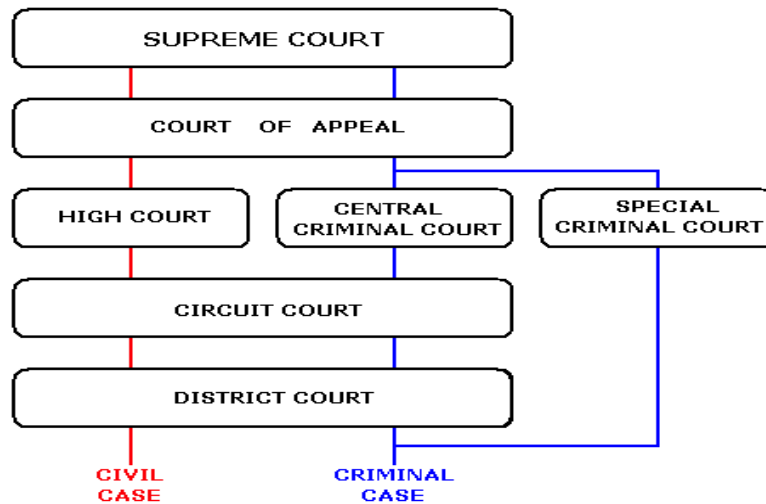


Figure 2.3 The Northern Ireland’s court system(Lowe & Das, 2015, p. 151).

2.3.3 The Judiciaries of Scotland

Scotland is one of the three separate and independent jurisdictions; it has its legal system and a unique court structure different from the rest of the UK. Additionally, the court system in Scotland consists of four levels: the Supreme Court, the Court of Session, the Sheriff Courts, and the District Courts.

Firstly, the Supreme Courts handle appeals from the Inner House of the Court of Session in Scotland. It also hears appeals from the Judicial Committee. Secondly, the Court of Session is the supreme civil court for Scotland and serves as a court of appeal. It consists of two houses ; the Inner House deals with appeals from the Outer House, the Sheriff House, and the other bodies. Appeals of the Inner House heard by three judges, without a jury and their decisions may be appealed to the Supreme Court.

On the other hand, the Outer House deals with civil matters involving tort, contract, intellectual property and commercial cases. Appeals of the Outer House are heard by a judge and a civil jury.

Thirdly, the Sheriff Courts deal with serious criminal and civil matters such as probate, adoption and bankruptcy. Appeals of the Sheriff courts are heard by a judge and a jury; however, its criminal and civil cases may be appealed to the High Courts and the Courts of Session.

Fourthly, the District Courts deal only with summary criminal matters such as breach of the peace, assault, theft, television licensing and electricity fraud. It also hears appeals from the Sheriff Courts. The District Courts' cases are heard by one or three justices of the peace without a jury. In 2007, the District Courts were replaced by the Justice of the Peace Courts (APS group Scotland, 2018). In this context, the following chart shows some details about Scotland's Court system and their jurisdiction.

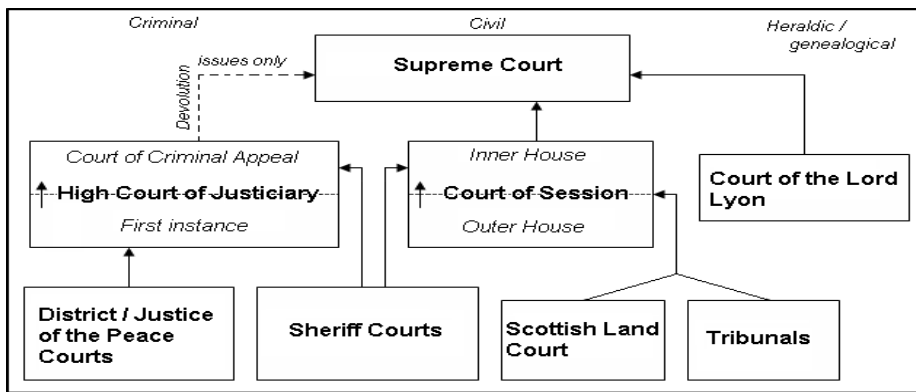


Figure2.4 : Court System in Scotland (wiki,2023)

2.4 The Characteristics of the UK's Judiciary after the Constitutional Reforms Act 2005

After 2005 the Judiciary System has changes. the Constitutional Reform Act 2005 created the separation of powers between the Executive (The government), Legislature (The House of Lords and The House of Commons), and Judiciary (The Judges). Thus, the Judicial is independent of the other two branches of the state as an essential part of democracy and the rule of law; this independence means that Judges are the only prime responsible for making accurate decisions depending on the law,

not their personal opinions (Russell (eds) & O'Brien, 2001). No Judges are accountable to another for any judicial decision they make and Judges are also given immunity from persecution for any acts they carry out in their judicial function. Additionally, the independence of the judiciary cannot be influenced by outside pressures like the media, politicians, or the government (Holland& Webb, 2016).

In the UK, the judicial system play a paramount role for safeguarding the rule of law, democracy, and human rights .According to Jeffrey Lionel Jowell et al. (2015),the establishment of the judiciary is demonstrated for the first time inside the Constitution due to the Constitutional Reform Act 2005.One of the Act's key features is the transfer of the judicial function of the Lord Chancellor to the Lord Chief Justice who now serves as the President of the Courts of England and Wales. As a result of this transfer of responsibility, the Lord Chief Justice acquired responsibility for training, guidance and deployment of Judges. They also have responsibility for representing the views of the judiciary of England and Wales to Parliament and ministers.

Secondly, it removed the judicial function of the House of Lords, and an independent Supreme Court was established with its appointment mechanisms, workers, government budget, and institutions .The main targets behind this reform were to separate the judiciary from the legislativeand executive branches at an institutional level and to reformulate the relationship between the judiciary, the government and Parliament in order to increase the judges' independence (Masterman,2014 &Sahaja, 2020).

Thirdly, the establishment of an independent Judicial Appointments Commission which plays a vital role in selecting and appointing judges, after they were made on the recommendations of the Lord Chancellor. This JACis made to ensure the independence and transparency over the judicial appointments. Fourthly, the establishment of the Judicial Appointments and Conduct Ombudsman is

responsible for providing recommendations concerning complaints about the judicial appointments operation, and treating complaints about judicial conduct (Zarthon, 2023).

Conclusion

This chapter examined the UK's judiciary system after the Constitutional Reform Act 2005. It attempted to provide a clear definition of the CRA 2005, emphasizing its crucial reforms and changes. Moreover, it highlighted the new court system in the UK, including the Supreme Court. Finally, it provided a comprehensive overview of the judiciaries in England, Wales, Northern Ireland and Scotland, along with illustrative examples.

CHAPTER THREE :

Discussion and Analysis : The UK Judiciary :

Dependence or Independence?

Chapter Three: Discussion and Analysis: The UK Judiciary :Dependence or Independence?

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Introduction

The Judiciary system plays a basic role in interpreting laws and legislations enacted by Parliament and in establishing the values of justice, human rights and the supremacy of law. The UK's judicial system had not initially been powerful and systematic, it has even evolved over time to be more powerful and independent. In the UK, there are three separate judicial systems, one for each: England and Wales, Scotland and Northern Ireland. Therefore, this chapter focuses mainly on three ideas. Firstly, the dependence of the UK's judiciary on the Parliament and the Executive powers. Secondly, it examines the independence of the UK's judicial system as a result of the Constitutional Reform Act 2005, the Human Rights Act 1998, and the incorporation of the European Convention on Human Rights into the British law. Thirdly, it discusses how the Constitutional Reforms reinforced the judicial systems in England and Wales, Scotland and Northern Ireland. In short, this chapter compares and analyzes the UK's judiciary system before and after the 2005 Constitutional Reforms.

3.1 Investigating the UK's Judiciary System before the Constitutional

Reform Act 2005

Previously, in the ancient systems, there was no legal system to control the entire country due to the sheltered kingdoms that later constructed UK. However, the Anglo-Saxon and Norman Kings established a unified judicial system for England and its counties. Over centuries, this judicial system has developed to constitute a great body of laws, multi-jurisdictional courts; for instance, civil courts, family courts, and criminal courts, in addition to multifarious legal procedures, such as a trial by jury.

3.1.1 Creating Laws

For centuries, judges and magistrates' courts were controlled by and depended on Kings, the church, and the nobility because the English political system has imposed its presence over the judicial entity in the UK. As has been discussed in the first chapter, judges were heavily influenced by the State's political powers. It is widely reported that the courts during the reign of King John decided cases according to his own desire and orders, not according to the laws. As well as the purpose behind King's John creation of his own court was to preserve his personal authority in the judiciary branch. Besides, Lords and ministers, because of their traditional privileges and positions, possessed a political powers which enabled them to interfere in the judicial decisions. Since they were powerful barons in the State, they had the full right to interfere in the judicial decision-making process and deciding cases according to their own desires and interests, rather than applying customs and laws.

Furthermore, the British law is basically rooted in the English history .The Common Law and the Statute Law are among the most essential laws in the UK. The first is based on the customs of the common people and developed through the court cases whereas the second refers to law which the English Parliament created through legislation. The emergence of the courts in the UK is due originally to the increase in the number of crimes and disputes in the kingdom , whether between people or between people and the government.

3.1.2 Courts and Judges

William the Conqueror found initially the King' Court (Curia Regis) which was the most significant and the first royal court in the history of England. Three important courts emerged from it. The Exchequer Court which dealt with the cases related to collecting taxes and royal revenues. The Court of King 's Bench concerned with civil and criminal cases in which the king was interested ,and later became called the Court of Queen's Bench. In addition to the Common Pleas Court which concerned with disputes between private individuals and hearing cases between common people.

On the other hand, Alfred the Great asserted on judges who have sharp mind, deep Knowledge in law , and being skilled, wise and literate. Whereas King Henry II established the jury of the twelve local Knights, he issued several assizes and laws. All such developments and achievements are extremely contributed in the development of the UK' s judicial system.

It is worth stressing that judges' decisions, before the Constitutional Reform Act 2005, were often influenced by political pressures, personal preferences, fear or favoritism of any party to the action. Even the common law emerged as a result of a particular struggle for political power (Slapper & Kelly, 2016). In addition, the English revolutionary struggles of the seventeenth century, which were between the monarch and the Parliament, where the judges took office at the request of the King, obviously highlighted, firstly the lack of independence of the English legal system from the State (government) in terms of the institution, function and the person. Secondly, they mainly indicated that judges could be appointed or removed from their office, whenever the sovereign decided. This supports the idea that the UK' judiciary system was dependent to the king and his government as well.

3.1.3 The Impact of the Parliamentary Sovereignty Doctrine

The UK' s judiciary system is not an independent entity, but rather it is a branch of Parliament represented by the House of Lords. The courts only exist to interpret the parliamentary legislations. However, they lack freedom to interpret them in accordance with judicial norms, rather they are obliged to interpret these legislations in line with Parliament' purposes and intentions. Moreover, judges and courts are restricted by the Parliamentary Sovereignty Doctrine. They do not have any power which enables them to reject or overturn any law passed by the Parliament contrary to the constitution or any other supreme legal authority in the State. So that, it is clear that this principle has restricted the freedom and independence of judges and courts in the UK.

The Doctrine of Parliamentary Sovereignty gave the British Parliament the ultimate power over the legislations, in addition to the executive and judiciary branches. Thus, the Parliament became the supreme legislative and judicial authority in the UK which can make or unmake any law. This doctrine also established the subordination of the judiciary and the supremacy of the Parliament; which means the superiority of the Statute Law over the Common Law; that is, the supremacy of the legislative power over the courts. Furthermore, this doctrine has detached the judicial authority, including judges and courts from participating in the country's political system as both individuals and institution in the State. Besides, it enabled the House of Lords, as the dominant branch of the British Parliament, to intervene and control the judicial decision- making process, and thus limiting the judicial power.

Therefore, it could be argued that the Parliamentary Sovereignty Doctrine made the British Parliament as the ultimate source of authority ,legislation and power and rule, and the absolute master over the other two branches in the State, and often even on the constitution, and obviously the functions and authorities of judges and courts were too bound and limited.

3.2 An Analysis of the House of Lords' Impact on the UK' Judiciary

Over centuries, the House of Lords was the Upper branch in the British Parliament, led by the Lord Chancellor and based on the hereditary principle. Thus, it was the dominant with its multiple functions

3.2.1 House of Lords' Role

Legislatively, the HL acted as a revising body, overseeing the European Community Legislations, examining bills from the HC , proposing amendments to bills, in addition to checking the government's work, and participating in making and shaping laws with the Commons. Judicially, the House of Lords , headed by the Lord Chancellor, served as the Highest Judicial Council in the UK, and as the Final Court of Appeal in civil and criminal law for England and Wales and Northern

Ireland; that is, it acted as the Supreme Court for the UK. Furthermore, the twelve Law Lords (Lords of Appeal) sat in the Legislature and served as the Highest Court of Appeal in the State. However, judges do not have the right to stand in Parliamentary Elections. Instead, they interpreted; within specific limits, the legislations of the Parliament, and were responsible for developing the common law, and their role in the British constitution was totally marginalized.

3.2.2 Lord Chancellor's Role

As for the executive branch, the House of Lords exercised its authority through the Lord Chancellor's office and role , who is a Senior Minister in the Cabinet and government. Therefore, this mixture and multiplicity of functions and powers that the House of Lords possesses ,especially the legislative one ,they clearly show that its veins were extended in all the authorities, giving it additional power that it used as an instrument to influence and interfere in the administration of the State' s affairs , to achieve its own interests , and particularly to limit the judicial power. Since the Lord Chancellor is a Head of Judiciary, Head and the Speaker of the House of Lords, and a Senior Minister in the Cabinet and government, this multifaceted roles and authorities ,thus, raise another indication that the powers in the UK were not separated before the Constitutional Reform Act 2005.

3.2.3 The Courts' Structure

In the UK, there were multiple courts , involving the Court of King' s Court which was a royal common law court , found initially to follow the monarch in his travels across the land, for the purpose of dealing with criminal and civil cases in which the king was interested. The Exchequer Court which handled cases related to royal revenues and the collection of taxes. The Common Pleas Court is also a royal court concerned with common pleas and matters in which the monarch was not interested. For centuries, these first three courts were the most important ones in the country, from which several

others later emerged, such as Magistrates' Courts, Crown Court, County Courts, and the High Court of Appeal (one for criminal cases and another for civil ones).

The historical origins of the establishment of these courts returned back to the English Kings who wanted to emphasize their positions as the legitimate rulers of England through enforcing their laws by means of the courts. These courts were run by either the king himself or the lords (barons) ; which means that judges were under a direct control of those powerful men. The major functions of these courts were the collection of royal revenues and taxes for the purpose of filling the royal treasury, preserving the kings' personal authorities in the judiciary branch, reinforcing their laws and positions in the country, and serving the interests of both the monarchs and the nobles, instead of serving the people.

Over time ,and as a result of the Parliament' s development, all these courts became dependent to the Parliament 's authority, and controlled by the House of Lords as the Upper branch in the British Parliament, acted as the Supreme Court and the highest appellate jurisdiction in the UK, and presided over by the Lord Chancellor as a Head of both the HL and the judiciary. So that , these courts ,after serving the interests of the kings and nobles, they came to serve the Parliament and the Lord Chancellor' s interests and authorities, instead of serving people' s concerns and interests.

3.2.4 The Effect of HL on the UK's Judiciary

To conclude, it can be said that those who apply the law(judges) were unpowerful ,restricted , and depending on the kings and the Lords. In addition, those courts evidently served the monarchs and nobles' needs and weals , and thus the UK' s judicial institutions were not applying the law for justice, otherwise for wealth and power. This is, so, another indication of the lack of independence of the English judicial system before the 2005 Constitutional Reforms.

3.3 The Human Rights Act 1998 and the UK' s Judicial System

When the Human Rights Act 1998 incorporated the European Convention on Human Rights into the British law, it makes it illegal for any public authority in the State to act against the laws and the articles of this convention. Its impact over the UK' s judiciary system is extremely significant.

3.3.1 The Impact of HRA 1998 on the UK's Judiciary

The Human Rights Act 1998 has a number of effects on the judiciary system in UK. First, it provided several judicially enforceable remedies for human rights' violations. Likewise, the Human Rights Act 1998 supported the oppressed people and the complainants to access to the courts and prove their cases, and thus get their rights and remedies.

Second, the courts in England and Wales became obligated to interpret the legislations in accordance with this convention. Parliament also became obligated to amend any law enacted by the HL that conflicted with the convention' s clauses. Third, the English courts have to consider the declaration, decisions, and opinions of the European Court of Human Rights while deciding cases in order to avoid any kind of overlaps or conflicted decisions by the UK' s courts.

Fourth, the Human Rights Act 1998 highly emphasized the significance of protecting human rights in the constitution and law, in particular the right to life, the right to justice and a fair trial and civil liberties. Fifth, it criticized the UK' s judiciary system and highlighted its weaknesses ; for instance, it showed that the Lord Chancellor' s existing in the three main arms of the State (the judiciary, executive and the legislature) is contrary to the principles of human rights. This act also stressed the principles of the rule of law and equality; that is, no one in the country , including monarch, government and people, is above the law, regardless of his class or rank , as well as the highest functions and positions in the State should not be restricted to a particular person or institution , as in the case of the House of Lords as it represents the highest judicial body in the UK, and the Lord

Chancellor as it is a Head of the Judiciary , Head and the Speaker of the House of Lords ,and a member in the Cabinet and government. Because one of the essential conditions for achieving justice and democracy in any country or government requires both the variation of the governmental functions and the diversity of people, regardless of the class, rank, race and social status.

Sixth, the Human Rights Act 1998 reinforced the right of judges and courts to judicial review of various parliamentary legislations, and considered it as a constitutional right. Such change led to the emergence of what is called the Constitutional Court , where judges have the right to involve into the different constitutional and political matters concerning the country. Although the courts can not strike down any law or legislation enacted by the Parliament, the HRA 1998 put the British government (Parliament) under a pressure to consider human rights issues while developing the legislations. Seventh, the Human Rights Act 1998 was the first step towards the creation of a balance in the UK between the judiciary, executive and the legislative branches, which later on led to the separation of powers. The consequences of such a development led to new demands for reforming the HL and modifying the Lord Chancellor' s office, and thus led to the Constitutional Reform Act 2005

3.4 Examining the Key Findings of the Constitutional Reform Act 2005

The Constitutional Reform Act 2005 is an act created by the British Parliament. The major reasons behind such remarkable act include the continued demands for reforming the HL , and modifying the Lord Chancellor' s role and office , in addition to the impact of the incorporation of the European Convention on Human Rights into the British law, which extremely influenced the relationship between the three powers in the State (judiciary, legislature and executive).

3.4.1 Establishing the Supreme Court

The most significant reforms brought by this act involve: firstly, the establishment of a Supreme Court in the UK in order to remove the judicial power and role of the House of Lords, which came into being in October 1st, 2009. The Supreme Court is now the Final Court of Appeal for the UK as a whole in civil cases, and for England and Wales and Northern Ireland in criminal cases. So that, it is the Highest Court in the UK.

3.4.2 Separation of Powers

Secondly, the modification of the Lord Chancellor's role and office. The CRA 2005 cancelled the role of the Lord Chancellor as a Head of the Judiciary and replaced him by the Lord Chief Justice as a new Head of the Judiciary in England and Wales with new functions and responsibilities. Thirdly, reforming the HL by the abolishment of its judicial power; which means that the judiciary system is finally separated from the legislature, and thus it became more independent and impartial system. Thus, it is apparent that the House of Lords and the Lord Chancellor have lost their authorities through which they used to influence the UK's judiciary system.

Fourthly, creating an independent Judicial Appointment Commission which greatly contributed to reduce the control of the executive power over the judicial appointments, as well as making the appointment's process more transparent and independent. Fifth, among the most significant reforms brought by the Constitutional Reform Act 2005 is the UK's new court system. This new court system consists of multiple courts, each with a different jurisdiction. At the top of the hierarchy is the Supreme Court, following by the Court of Appeal which composed of two divisions, the civil division and the criminal division. After that, there is the High Court that consists of three divisions, involving Chancery Division, Family Division, and Queen's Bench Division, each with its sub-divisions and jurisdictions, such as the Crown Court, Magistrates' Court, County Court and Tribunals as has been illustrated in chapter two. Therefore, it can be said that the Constitutional Reform Act 2005 resulted

substantial changes and reforms in the UK's judiciary system and discipline ,as well in the UK's court structure (in its divisions, jurisdictions and functions). So that, this is an indication and also an evidence of the independence and impartiality of the judiciary system in the UK after 2005 Constitutional Reforms.

Moreover, it is important to indicate that the principle of the independence of the UK's judiciary system is acknowledged in the British Constitution, and referred back to the Act of Settlement 1701, and it is promoted and reinforced by the Constitutional Reform Act 2005. However, the notion of the judicial independence in the UK has the meaning of promoting the independence of judges as individuals, and the independence of the judicial decision-making process in terms of person (Lord Chancellor and Law Lords) , and function (House of Lords ' judicial function is opposed to its legislative one), and institution (Parliament was the place where both the legislations enacted and judicial decisions and judgments taken. However, after the creation of a separate Supreme Court, it took this role), rather than the independence of the judiciary as a branch of the government because it is quite impossible to separate the judiciary from the legislative and executive authorities. Because they constitute the core of the State, their relationship is complementary.

To conclude, it can be said that ensuring the democracy and the rule of law, guarantee the right to a fair trial and obtaining equitable judicial decisions, reducing the risk of pressure or influence , and avoid any kind of tyranny require a high degree of independence, autonomous and competent judges, impartiality, confidence, and some constitutional protection from any interference or undue pressure .Therefore , the Constitutional Reform Act 2005 came to promote and reinforce such conditions and necessities in the UK's judiciary system . As a consequence , it became institutionally more independent from the government and lawmakers. Judges became more autonomous in making their own judicial decisions,and responsible of administrating the courts and the legal system.

3.4.3 Examining the Impact of the 2005 Constitutional Reforms

It is so significant to indicate that the UK does not have a codified constitution, which is a quite rare compared to most other countries. The UK's political system is based on three main authorities, involving the legislative branch (Parliament), the judiciary (judges and courts), and the executive branch (the Crown and government). In the UK, the judiciary as a basic pillar in the State, arguably it acquired its independence after the Constitutional Reform Act 2005, and mainly through the establishment of a separate Supreme Court. A distinctive characteristic of this remarkable act is that it reinforced the independence of the judiciary systems of England and Wales, Scotland and Northern Ireland. Thus, the UK now has three separate legal systems, one for England and Wales, one for Scotland, and another for Northern Ireland. These three separate judicial systems contain different jurisdictional courts and legal procedures.

It can be said that the Constitutional Reform Act 2005 reinforced the judiciaries of England and Wales, Scotland and Northern Ireland through : Firstly, establishing a separate Supreme Court for England and Wales ; which means separating the judicial power from the legislative branch in order to achieve a clearer separation of powers. Secondly, abolishing the HL's judicial power. Thirdly, removing the judicial functions of the Lord Chancellor and replacing him by the Lord Chief Justice. Fourthly, through establishing an independent Judicial Appointments Commission which obviously increase more transparency in appointing judges, and reducing the control of the executive authority over the judicial appointments. Fifthly, giving judges the right to judicial review. Sixthly, providing some constitutional protection for judges. One form of such constitutional protection is the principle of the judicial independence which established by the Constitutional Reform Act 2005.

3.5 Discussion and Results

Through discussion and analysis of the gathered information in the first and second parts, it can be concluded that the judiciary is one of the most essential pillars on which States are built, and no State can be built and promote without having a strong, impartial and independent judicial system. Therefore, it can be said that the British judicial system, before the Constitutional Reforms of 2005, was a dependent, and unpowerful system. It was subject to and subservient to kings, and then to Parliament. In particular, it was devoted to serving the House of Lords and Lord Chancellor's interests.

As a result of the spread of the democratic thought, the Human Rights Act 1998 which incorporated the European Convention on Human Rights into the British law, through which it criticized the UK's judiciary system and highlighted its shortcomings and weaknesses, in addition to the continued demands for reforming the House of Lords and modifying the Lord Chancellor's office and roles, the UK's Parliament, thus, was obligated to enact the Constitutional Reform Act 2005. This act is considered to be the most significant and crucial one after Magna Carta because it changed the course of the judiciary and judges in the UK as a whole. It established a separate Supreme Court in order to take the judicial role of the Law Lords (House of Lords). It abolished the judicial power of the House of Lords. It modified the Lord Chancellor's office and roles, and replaced him by the Lord Chief Justice as a Head of the Judiciary in the England and Wales. In addition, it created an independent Judicial Appointments Commission in order to achieve transparency over the judicial appointments. Consequently, the UK's judiciary system became more independent, powerful and fair.

Conclusion

This chapter contained a comparative analytical study about the UK's judiciary system before the Constitutional Reform Act 2005 and after the Constitutional Reforms. It firstly investigated the

historical roots of the UK judiciary. Then , it discussed the impact of the Parliamentary Sovereignty Doctrine, the Human Rights Act 1998, and influence of the House of Lords on the UK ' s judicial system. After that, it examined the key findings of the Constitutional Reform Act 2005. However, the major focus in this chapter was on explaining and analyzing the significance of the crucial reforms and changes brought by this act and their influence on the UK' s judicial system, discipline and structure. To conclude, this chapter aimed to reach the idea that the UK ' s judiciary system became more powerful and independent after the 2005 Constitutional Reforms by using the comparative analytical approaches.

General Conclusion

Previously, in the ancient systems, there was no judicial system to control the entire country due to the sheltered kingdoms that later constructed the UK. When the Anglo-Saxons arrived to the land, they created the kingdom of England. They, with the Normans, established a unified legal system for England and its counties. Over centuries, this judicial system has developed to constitute a great body of laws, multiple- jurisdictional courts; for example, criminal courts, in addition to multiple legal procedures, such as a trial by jury(Rivlin,2012).

This study aimed to trace the chronological development of the judiciary in the UK before and after the Constitutional Reform Act 2005. It also sought to highlight the impact of the House of Lords' authorities and the Lord Chancellor's multifarious roles and responsibilities on the UK' s judicial system. Moreover, it aimed to examine the idea of the dependence or independence of the English legal system.

For synthesizing the major studies to the research, relevant literature review has been conducted. The first chapter was concerned with the beginnings and the development of the judiciary in the UK for the sake of getting a clearer and deeper understanding to the topic and the main reasons behind the Constitutional Reform Act 2005. The second chapter explained in detail the features of the Constitutional Reform Act 2005. However, the last chapter focused on examining and analyzing the key findings of the impact of the Constitutional Reform Act 2005.

For achieving the objectives of the research, we asked, correspondingly, three questions. The first inquired about the characteristics of the UK judicial system before the Constitutional Reform Act 2005. The second examined the features of the United Kingdom judiciary system after the 2005 Constitutional Reforms. The third scrutinized the extent of impact of the Constitutional Reform Act 2005 on the UK judicial system.

To respond to the questions, three hypotheses have been formulated. The first examined whether the UK judiciary system before 2005 could lead to a limited independence of the system, and a significant role to the House of Lords . The second hypothesized that the peculiarities of Constitutional Reform Act 2005 could make radical changes in the UK judicial system. The third proposed that the Constitutional Reform Act 2005 could motivate the judicial system in the UK to gain more independence and authority.

In order to test our hypotheses, we selected the related corpora from the previous historical studies, and accordingly we implemented the historical method to collect facts and chronological data, to provide insights about the history of the topic, and to provide also a comprehensive context to the subject; the descriptive methods to describe the framework of the UK judiciary system before and after the 2005 Constitutional Reforms. The analytical method to analyze the findings of the research and to solve the problem. The comparative method, from the other hand, to compare the UK ' s judiciary system before the Constitutional Reform Act 2005 and after the Constitutional Reforms.

The results clearly proved that the UK judiciary system had not initially been powerful and systematic .It has even evolved over time to be more powerful and independent. The findings vividly proved that the UK judiciary system before the Constitutional Reform Act 2005 was a dependent and weak. It was subjected and subservient to kings, and then to Parliament. In particular, it was devoted to serve the House of Lords and the Lord Chancellor's interests. As a consequence, the UK ' s Parliament was obliged to legislate the Constitutional Reform Act 2005 which brought radical changes and reforms concerning the judicial system, including the establishment of a separate Supreme Court for the purpose of taking the role of the Law Lords, the abolishment of the House of Lords' jurisdictional power, the modification of the Lord Chancellor's role and office, as well as the creation of an independent Judicial Appointments Commission. Consequently, the UK judiciary system became more powerful, independent and authoritative.

As a conclusion, it can be said that the UK legal system was not born strong, but rather it developed over time to become more powerful, more independent and more authoritative.

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الملخص

يحاول هذا البحث إجراء دراسة تحليلية لإستقصاء عملية تطور النظام القضائي في المملكة المتحدة. و من أجل إجراء هذه الدراسة ، فقد تم طرح ثلاثة أسئلة مختلفة. فأما السؤال الأول فإنه يستفسر عن خصائص النظام القضائي في المملكة المتحدة قبل قانون الإصلاح الدستوري لعام 2005. . بينما يفحص السؤال الثاني خصائص ومميزات النظام القضائي البريطاني بعد قانون الإصلاح الدستوري لعام 2005. و السؤال الثالث بدوره يختبر مدى تأثير قانون الإصلاح الدستوري على النظام القضائي في المملكة المتحدة . و للإجابة عن الأسئلة المطروحة سابقا ، تمت صياغة ثلاث فرضيات . الفرضية الأولى تقترح أن فحص النظام القضائي البريطاني قبل عام 2005 يمكن أن يؤدي إلى استقلال محدود للنظام ، و دور مهم لمجلس اللوردات. و أما الفرضية الثانية فإنها تشير إلى أن خصائص قانون الإصلاح الدستوري يمكن أن تحدث تغييرات جذرية في النظام القضائي في المملكة المتحدة . أما الفرضية الثالثة فإنها تتعلق بتحليل الكيفية التي يحفز بها قانون الإصلاح الدستوري النظام القضائي البريطاني ليكون أكثر إستقلالية و نو سلطة. و من أجل التحقق من صحة فرضياتنا ، فقد إتبعنا كلا من الأساليب التاريخية ، التحليلية و المقارنة. و عليه فقد كشفت الدراسة عن النتائج التالية : كان النظام القضائي البريطاني قبل قانون الإصلاح الدستوري نظاماً ضعيفاً ، خاضعاً و تابعاً لسلطة الملوك و من ثم لسلطة البرلمان . و لكن عقب الإصلاحات الدستورية لعام 2005 ، حدثت عدة تغييرات و إصلاحات جذرية له ، بما في ذلك إنشاء محكمة عليا منفصلة ، إلغاء السلطة القضائية لمجلس اللوردات ، تعديل دور اللورد المستشار و مكتبه ، إضافة إلى إنشاء لجنة تعيينات قضائية مستقلة ، و نتيجة لذلك فقد أصبح النظام القضائي في المملكة المتحدة أكثر قوة و استقلالية و ذا سلطة و نفوذ على غير ما كان عليه سابقاً.

الكلمات المفتاحية: مجلس اللوردات , اللورد المستشار , القضاء, قانون الإصلاح الدستوري.