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COMPARATIVE ANALYSIS OF SOURCES OF ENGLISH LAW AND UZBEK LAW

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Abstract: This article provides a comparative legal analysis of the sources of the English and Uzbek legal systems. Similarities and differences of sources of two legal systems namely, common law and civil law, have been studied. Furthermore, the article analyzes the specific drawbacks and benefits of the different sources.

Keywords: English law system, national law, general law, public law, private law, precedent law, statutory law, codification, incorporation, consolidation.

The Anglo-Saxon legal family, or common law system, is one of the oldest and most influential and widespread families among the existing legal families in the world today. One-third of the world's population lives under the influence of common law norms, doctrines, industries, and institutions. Common law has been used for many years in the United Kingdom, the United States, Canada, Australia, New Zealand, and a number of other countries.[1]

English law is a general legal system, a legal system based on legislation and case law, which is not in the form of a single document or code.

Today, the main form of expression of law in our country is a normative legal document. Normative legal acts are a special type of legal document that is established or approved by state bodies, defining mandatory criteria of conduct. Typically, they are a direct product of the law-making activities of the competent authorities.[2]

It is well known that the legal system of any state cannot be studied without linking it to other national legal systems and international law. Such a legal triangle serves as a common legal area. In it, various normative and legal documents interact, collide and work together. They are based on general integration processes that strengthen cooperation between states in economic, social, cultural and other fields.[3]

English law, unlike other legal systems, has a casual character, in which case law takes precedence. Current legislation will not be codified.[4]

Also, common law norms were born in the consideration of specific cases by royal courts, so they were less abstract and focused on resolving specific disputes rather than setting general rules for the future. Thus, coding is not typical for this system.[5]

Related to legal documents related to the emergence, change and termination of a legal relationship. The systematization of legislative acts plays an important role in facilitating the application of these documents and, on this basis, increasing the effectiveness of legal regulation.

[1] "Basic modern legal systems", Hayitbaev FP, Najimov MK, 2008, page 62
[2] "Theory of State and Law", Odilkoriev HT, 2018, page 201
[3] "Сравнительное праводение Основные правовые системы современности" Saidov A.X., 2004, p. 373
[4] "Basic modern legal systems", Hayitbaev FP, Najimov MK, 2008, p. 66
[5] "Сравнительное праводение Основные правовые системы современности" Saidov A.X., 2004, p. 257

Systematization of legislation in the national legislative system is an activity carried out to regulate and improve them, which means to make these documents a defined and interconnected system. In turn, there are types of systematization, such as codification, incorporation and consolidation. English legal sources are not codified. But with the consolidation type of systematization, resources are regulated. The consolidation does not change the content of the legal form, but the document loses its validity. However, the practice of systematizing legislation through consolidation is rare. As an example, courts prefer to dismiss (separate) a precedent rather than overturn it. This rule allows you to "revive" a sleeping precedent if necessary.

One of the features of the national legal system of our country is the separation of law into public and private law. While private law is intended to meet the needs and protect the rights of individuals, public law protects the public interest. While public law regulates social relations in which the state participates, private law regulates relations in which the state does not participate.

Public law is a field of law aimed at protecting the general public and its interests. For example, constitutional, criminal, administrative law, and so on. Private law is a field of law aimed at meeting the needs and interests of individuals. For example, citizenship, family, labor law, and so on.

Sh. According to Saddulaev, the formation of private and public law goes back to ancient Roman law. It is divided into "Jus publicum" and "Jus privatum". According to Ulpian, public law refers to the status and status of the Roman state ("ad statum rei Romanae spectat"), while private law refers to the interests of individuals ("ad Singulorum itilitatem").[6]

Unlike other legal families, English law had little influence on the emergence and development of the Anglo-Saxon legal family. Perhaps this is why in the English legal system there is no division of law into private and public (typical of Romano-German law), but historically there is a division of law into general law and the law of justice.

In addition, there is no network division of law in English law. The absence of a branch of law in the Anglo-Saxon legal system (mentioned above) is due to:

- on the one hand, all courts have common jurisdiction (as noted earlier), ie they can consider and decide on the merits of different categories of cases of public and private law;
- on the other hand, the UK does not have European-type codified legislation (especially codes), the systematization is carried out through consolidation, which allows the user to combine and combine several similar pieces of legislation in a single piece of legislation without changing their content;
- Given that the precedent of the court is based on the division into common law and the right to equality, we can say that the law is built not on the field, but on a more formal legal principle - based on the existing system of sources of law.

It is known that in our country, according to the method of legal regulation, norms are divided into imperative and dispositive norms. There is no imperative or dispositive division in English law itself. In Anglo-Saxon law there is no division of norms into imperative and dispositive. This situation is mainly explained by the fact that, in contrast to the norms of continental law enshrined in law and governing general cases and relations, a judge in the Anglo-Saxon system applies to a judge a decision already made in a particular case. a particular situation, viz. takes into account existing precedents.

Within the Anglo-Saxon system, although some scholars believe that the division of norms into imperative and dispositive may occur, this rule is not universally supported and is not properly considered . Because, according to historical traditions, jurisprudence has always been regarded as the basis of the English legal system, a law formed in the course of jurisprudence, where the role of law is secondary.

[6]"Theory of State and Law", Sadullaev Sh., 2020, pages 173-175

Also, in English law, more attention is paid to the role and importance of procedural law than substantive law. Instead of information, substantive law is a system of legal norms that regulates social relations. Norms of substantive law determine the rights and duties of legal entities, their legal status, the scope of legal regulation. Procedural law is the norms that determine the procedure for exercising rights, fulfilling obligations and enforcement.[7]

However, these two legal systems have a number of commonalities, although they belong to different families of law. We will try to explain these aspects in the following places.

First of all, legal rules, principles and guidelines are collectively referred to as legal norms or standards. Legal hierarchical view of norms in terms of of norms some types from others superiority character has _ English right norms hierarchy as follows :

European Union right

Statutes

Precedents

Habits.

The types of normative legal acts in the system of national legislation are:

Constitution of the Republic of Uzbekistan;

Laws of the Republic of Uzbekistan;

Resolutions of the chambers of the Oliy Majlis of the Republic of Uzbekistan;

Decrees and resolutions of the President of the Republic of Uzbekistan;

Resolutions of the Cabinet of Ministers of the Republic of Uzbekistan;

orders and decisions of ministries, state committees and agencies;

decisions of local public authorities.

It is known that the relationship between the legal force of various normative legal acts is determined in accordance with the Constitution of the Republic of Uzbekistan, the powers and status of the bodies that adopted normative legal acts, the types of these documents, as well as the date of adoption.

The normative legal act must comply with the normative legal acts that have a higher legal force than it.

In case of discrepancies between normative legal acts, the normative legal act with higher legal force shall be applied.

In case of differences between normative legal acts of equal legal force, the rules of normative legal acts adopted later shall apply. This provision is enshrined in the Law of the Republic of Uzbekistan "On regulatory legal acts". In the English legal system, there is a "presumption of the priority of the law adopted later over the previous one" so that there is no conflict between the laws. That is, if there is a conflict between the laws, the one adopted later over time will have a higher legal force. It is noteworthy that the adopted statutes are considered independent of each other and are not related in practice to the earlier adoption.

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[7] “Theory of State and Law”, Sadullaev Sh., 2020, p. 172

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