



## THE LEGAL STATUS OF A JUDGE IN ENGLISH LEGAL SYSTEM

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**Annotation:** This article analyzes the legal status of judges in English legal system, their role in the judicial system. Moreover, the stages of development of English legal system and the changes in the judicial system at these stages are studied. Specifically, the specifics of these stages and the historical facts in them are discussed. Furthermore, the role of judges in judicial system of Uzbekistan and English judicial system has been comparatively analyzed.

**Key words:** judicial system, independence of the judiciary, precedents, court proceedings, district courts, criminal cases, sentences, the Supreme Court, the Court of Appeal.

### INTRODUCTION

In today's modern world, especially in our country, as society develops, new social relations are emerging. Naturally, such processes, along with the development of societies, require the development and completion of the legal system that regulates the relations that occur in them. In these cases, we need to explore the legal systems of developed countries and learn how to apply them to our advantage. We know that many disputes in society are resolved through the courts. In the process, individuals' destinies, futures, and sometimes their entire lives are at stake. Therefore, it is more important than ever to increase the fairness and professionalism of judges in this trial. Such work is important for every developed state, which considers human dignity and well-being, rights and freedoms as a key issue. Including in our country.

It is known that the New Uzbekistan Development Strategy<sup>1</sup> for 2022-2026 provides for the establishment of effective judicial control over the activities of government agencies and officials and increase the level of access to justice for citizens and businesses, strengthen judicial control over the investigation by further developing the Habeas Corps, radically increase the level of access to justice for citizens and businesses through the implementation of the principles of real equality and adversarial proceedings, the gradual digitization of the judicial system, the elimination of bureaucratic hurdles and obstacles, to further enhance the role of the judiciary in ensuring the true independence of the judiciary, to widely introduce the principle of judicial self-government and to create effective mechanisms to prevent unlawful interference with judges, the introduction of democratic principles such as openness and transparency in the formation of the judiciary, the election of leaders and accountability in appointments to senior positions in the judiciary have been strengthened as the most important areas of judicial reform.

It is well known that the judiciary is an independent branch of government that ensures the rule of law and the stability of justice in society. Radical improvement of the system of selection and appointment of judges, the formation of a highly qualified judiciary is one of the most pressing issues in the judiciary today. The only way we can use these to achieve our goals is to learn advanced, tried and tested foreign methods. One of the most common and widely used judicial systems in the world today is the English legal system. In it, the judiciary plays a key role in maintaining order in society and

<sup>1</sup> <https://lex.uz/uz/docs/-5841063>

society. Its main task is, in fact, to resolve disputes by applying pre-existing norms or, in some cases, precedents issued through legal procedures recognized by the political system. The system is also noteworthy in that the judiciary is well-structured and not overburdened with judges. If we look at the scale of cases in our country today, especially in civil and economic courts, there are cases when one judge has to hear up to sixty cases a day. Naturally, such cases do not affect the quality of court proceedings and decisions. It is more important than ever to study best international practices, including the judicial system in English law and the role of judges in it, and how to incorporate them into our system.

## ANCIENT SYSTEM

We know from the scientific and historical literature that the history of the development of common law conditionally includes four main stages<sup>2</sup>. The specifics of these stages, which periods they cover, and the historical facts in them are cited in many literatures. We do not want to dwell on this history again, but the question we are considering is that the common law has emerged in public life in the period from the beginning of its development to the emergence of the current professional and structured judiciary how incoming disputes are regulated. Prior to the establishment of common law, the territory of England was under the rule of the Romans. It is known from history that the Romans created a judicial system and legislation uniquely developed for their time. However, they did not introduce their judicial system to the indigenous population, and it was applied almost exclusively to the social relations that developed between the Romans. This prevented the Roman judicial system from taking root in England.

One of the oldest types of courts that have existed since the early days of common law are the county courts in England. These types of courts date back to the time when the Germanic tribes began to rule England and were historically called "county courts"<sup>3</sup>. The history of the English District Court is one of the most interesting chapters in the history of English law. The earliest ideas about the court and how it should be go back to the idea of *Komitatus*<sup>4</sup> during the time of the first Germanic tribes. According to the Roman historian Tacitus in his pamphlet "Germania", the committee meant a military connection between a Germanic warrior and his master. Later, during the Anglo-Saxon period, the Committee came to be used as a court rather than as a military organization. In the Anglo-Saxon period, the court was called hemat, and all courts bore his name. Later the Shire Court was established and such courts were the first form of representative democracy. The Shire Courts is a court or contested Anglo-Saxon legal institution used to maintain law and order at the local level and to collect taxes for various administrative functions, including the central government. During this period, the main task of the court was to consider civil claims. There are many separate systems of district courts, each with jurisdiction in England and Wales to enforce its rulings, but each with a district court that hears claims. District courts have not always had the same scrutiny as district courts.

If we look at a judge or a presiding judge sitting in a courtroom today, we can see the result of a thousand years of legal evolution. The British judicial system is still evolving and evolving to meet the needs of society, and this system is recognized as one of the best and most independent systems in the world. Attending a trial in an English and Welsh court today is not a very comfortable experience. But this is far better than the methods used by judges in trials until almost the end of the twelfth century to determine guilt or innocence in criminal cases. At that time, there were a number of methods used in court proceedings to determine the guilt or innocence of offenders. In one of these methods, defendants would have to hold a piece of hot iron to prove their innocence, or grab a piece of stone from a pot of boiling water or do something painful and dangerous. Of course, their hands were injured during this process. If their injured hands began to heal after three days, it was believed that God was on their side and was supporting them, which proved their innocence and was found to be unspeakable

<sup>2</sup> Марченко М.Н. Правовые системы современного мира: Учеб. Пособие. – М.: Зерцало, 2001. – С. 132-152.

<sup>3</sup> <https://www.judiciary.uk/about-the-judiciary/history-of-the-judiciary/>

<sup>4</sup> Ford, Byington (1913). *A History Of The County Court Of England From 1066-1307*. California: University of California.

by the court. It is not yet known how many “innocent” sentences have been recorded by this judicial system. Another very popular “test” method used by judges in court was water. In this method, the accused was tied up and thrown into a lake or other body of water. If he was innocent, he was believed to have drowned. But there were two problems with this method, which is often used to test those who are accused of being witches. First, the defendant's right thumb was connected to the left toe and the left thumb was connected to the right toe. This made it almost impossible for the accused to drown. The second contentious issue is whether the drowned were rescued or not. There is no definite agreement on this issue yet, and there is a division of opinion. Also, in some cases, in criminal and civil disputes, battles were fought during the trial to prove the innocence of the parties or their right to the disputed property. In such a court-martial, both sides could use their good fighting champions, and so the system was not so fair. Combat litigation gradually became unusable for civil cases, and such a method was quickly banned, forcing defendants to rely on traditional methods.

### **CIVIL COURT IN ENGLAND AND WALES**

In England and Wales, civil justice is heard mainly in district courts, and in more serious or complex cases in the Supreme Court. Jurisdiction covers a very wide range - from very small or simple claims (e.g., claims for damaged goods or debt collection) to large claims between international companies<sup>5</sup>.

Civil cases include public hearings open to the public, hearings closed to the public in the judge's personal account, as well as issues that can be resolved by the judge alone, but only on the basis of documents. Most civil disputes do not end in court and often do not reach full litigation. In most cases, mediation (an out-of-court dispute resolution process) or established complaints procedures are being considered. However, if the case is to be taken to court, the goal is to keep it as simple as possible. For small claims, there is a quick and inexpensive way to resolve disputes through small claims court. Judges of civil jurisdiction have no power to imprison the “losing party”. They usually, but not always, compensate the winning party for financial “damages”, the amount of which depends on the circumstances of the claim.

Before considering a civil case, the judge gets acquainted with the relevant materials of the case and gets acquainted with their details. In most civil cases, there is no jury trial (in which case verbal and written libel and libel lawsuits are the main exceptions), and the judge hears them independently. In establishing the facts, decides whether to apply the law applicable to them, and then makes a reasoned judgment. Once a civil case has been initiated, judges will also be actively involved in the process, helping to ensure that the process is resolved as quickly and efficiently as possible.

The work performed by judges during a trial includes:

- encourage parties to cooperate with each other during the proceedings;
- assistance to the parties in resolving the case;
- Encourage parties, where necessary, to use an alternative dispute resolution procedure; and
- Controlling the progress.

Sometimes the parties agree on the relevant facts and the judge does not need to hear “living evidence”. The problems may be related to the terms of the law or court order that must be applied. However, often the parties and their witnesses provide written and oral evidence, and the witnesses may be questioned. The judge provides all participants with the opportunity to present and consider their case as fully and objectively as possible. During the course of the case, the judge will ask questions on any matter that he or she deems necessary to clarify. The judge also decides all procedural issues that may arise during the trial.

The judge will make a decision after hearing the arguments of all participants and any representations (powers of attorney) they intend to put forward. This can happen immediately or later if the job is difficult. If a judge shows contempt in a civil case, the judge has the power to punish the parties for

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<sup>5</sup> <https://www.judiciary.uk/about-the-judiciary/the-justice-system/jurisdictions/civil-jurisdiction/>

such action. But usually civil cases do not involve the application of any type of punishment. If the judge decides to award damages to the plaintiff, he must continue the trial to determine the amount. Or, in some cases, the plaintiff could request a court order, such as forbidding the defendant from making excessive noise while playing the drum in his upstairs apartment early in the morning. Or the parties could ask the court to make a statement indicating the exact boundary between the two properties, which they never agreed upon. In such cases, the judge is required to decide, if any, on the appropriate remedy and its specific conditions.

Once a judgment has been rendered in a case, the judge must deal with the costs of the case. These include any attorney's fees, court fees paid by the parties, fees for expert witnesses, benefits that can be paid to defendants who acted in person (without attorneys), profits and other expenses lost by the parties and their witnesses. The general rule is that the losing party in a civil case must pay the winning party's costs, but the judge has a broad voluntary right to waive this rule. The judge's decision on this part of the case is very important to the parties. This is because the judge can decide whether the winning party will pay only part of the costs to the losing party or whether each party will have to cover its own costs. At the end of the case, the judge may hear the opinion of the representatives.

The Civil Division of the Court of Appeal hears appeals from all Divisions of the High Court and, in some instances from the County Courts and certain tribunals. The Civil Division is presided over by the Master of the Rolls. Bringing an appeal is subject to obtaining 'permission', which may be granted by the court below or, more usually, by the Court of Appeal itself. Applications for permission to appeal are commonly determined by a single Lord Justice, full appeals by two or three judges. The Civil Division of the Court Appeal also deals with family cases.

## **FAMILY COURT SYSTEM**

The family litigation system is designed to help families avoid conflicts as much as possible, as well as to allow them to resolve disputes quickly and with minimal pain if disagreements or problems arise. If possible, the parties are encouraged to resolve their disputes out of court, for example through mediation, because they are considered more loyal if they have played a role in shaping any agreement. When disputes come to court, cases are heard by magistrates and judges who are specially trained to look after family matters. These controversies often involve very difficult situations. For example, relationship breakdowns or issues with children. Judges try to make cases of family disputes less controversial, and hearings can often be informal. For example, by reconciling all the parties sitting around the table<sup>6</sup>.

The participation of a judge in family law is mainly concerned with two types of cases: private and public.

Private cases include disputes involving parents and their children. For example, legal divorces or divorces, with whom the children should live, with whom and in what order to meet, where to go to school or even live abroad with one of the parents, issues such as the possibility of a chip. Grandparents and other relatives can also participate in the work.

Community service is a term used to describe cases where local public administrations have taken steps to remove children from parental care. This is due to the fact that in such cases the children will be physically or mentally harmed by their parents. Such cases can lead to the adoption of children, and this is also handled by the family judge.

District Family Law Judges hear two main types of cases. They are engaged in personal affairs, that is, disputes between parents over their children. For example, such activities may include questions such as who children can stay with, with whom, in what order, when and where to meet, where they can go to school, or whether they can move abroad to live with one of their parents. Grandparents and other relatives can also participate in the work. The second type of situation is called public works, and in such cases local councils are involved in the dispute. These cases often involve measures taken by

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<sup>6</sup> <https://www.judiciary.uk/about-the-judiciary/the-justice-system/jurisdictions/family-jurisdiction/>

these councils to separate children from their parents. This is based on the fact that the board believes that children are harmed by their parents, these circumstances may lead to the adoption of these children, and this will also be dealt with by the judge. The judge usually has all the documents the day before the trial, and therefore it is considered that he has familiarized himself with all the details of the case before the case goes to court. These cases can take a long time to resolve, and it is important, if possible, that participants meet with the same (exactly) judge throughout the proceedings so that there is a consistent approach to resolving issues.

The parties usually use specially trained lawyers to handle this complex and sensitive case. Judges will also be specially trained, as these cases are very closely related to people's lives and sometimes have a devastating effect. Children judged by the judge will have their own lawyer in public cases and may also have a lawyer in private cases if the judge deems it necessary. In both cases, the judge receives reports from a forensic expert who talks to the children and learns their wishes. It is important to keep in mind that these cases can take a long time to resolve and that the judge must put the interests and well-being of the children first. In family courts, court hearings are held behind closed doors, and only participants can attend. The judge does not wear a special robe and the process is much more informal than in a criminal court, so people who are often frightened and nervous may not feel intimidated and can tell the judge what they want to say. People at work know each other, they can be angry and upset, or they can have strong emotions. The case can lead to a tragic situation, and the family judge must try to calm people down and be sensitive to everyone's point of view. Sometimes witnesses are too scared to be in the courtroom or become depressed when they go there. In such cases, steps can be taken to help them via video link.

## CRIMINAL PROCEEDINGS

Judges and the presiding judge play an important role in the criminal justice system, especially in sentencing. Criminal cases usually go to court after a decision has been made by the Crown Prosecution Service to prosecute someone for an alleged crime. In most cases (over 95 per cent), judges hear evidence and, as a panel, decide on guilt or innocence. In more serious cases, the District Judge (Magistrate's Court) or the District Judge at the Crown Court hears the evidence, in other cases, a trial by jury is heard. Extremely serious criminal cases, such as murder and rape, can be heard by a Supreme Court judge. Both the presiding judge and the judges have the right to detain those convicted of a crime if the crime is serious enough. But imprisonment is not the only solution. The presiding judge or the judge may impose one or another type of punishment on the defendant, involving him in compulsory community service, or place him under supervision in one form or another in a place where his actions or activities are restricted. Although sentencing is an important factor in sentencing, judges consider how a particular sentence can reduce a person's chances of reoffending<sup>7</sup>.

Before the start of the criminal case, the judge reads the relevant case documents and gets acquainted with the details of the case. Including,

- the indictment, which specifies what charges should be brought against the defendant;
- testimony of witnesses;
- evidence;
- Documents on applications submitted by any party on the admissibility of evidence in court.

The Crown Judge oversees the selection and swearing in of the jury for trial, instructs the judges on their role in the trial in resolving the facts, and warns them not to discuss the case with anyone else.

Once the trial has begun, the judge will ensure that all participants are given the opportunity to present their case and have it considered as complete and fair as possible. The judge actively participates in the trial, oversees the conduct of the case in accordance with applicable law and practice. As the case progresses, the judge records the evidence and decides on legal matters (e.g., whether the evidence can

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<sup>7</sup> <https://www.judiciary.uk/about-the-judiciary/the-justice-system/jurisdictions/criminal-jurisdiction/>

be accepted or not). After all the evidence in the case has been considered, the judge's conclusion is made. The judge will determine the law on each of the charges against the jury and what the indictment must prove in order to convince the judge of the case. At this stage, the judge points to the notes made during the trial and reminds the jury of the main points of the case, highlighting the strengths and weaknesses of each side's arguments. The judge will then give instructions on their duties before going to the deliberation room for the jury to review the verdict.

If the jury finds the defendant guilty, the judge will issue an appropriate verdict. Judgment is influenced by a number of factors:

- mainly the circumstances of the case;
- the impact of the crime on the victim;
- Relevant legislation, in particular the instructions of the Court of Appeal.

The judge shall equally consider the mitigation, as well as any reports and references relating to the defendant. The judge shall announce the appropriate judgment or sentence only after taking into account all of these factors.

### JUDGES IN MILITARY JUDICIARY

The Judge Advocate General is the Chief Justice of the Military Courts and has a team of Assistant Judge Advocates General<sup>8</sup> (A-JAGs).

All judges are citizens appointed from the ranks of experienced barristers or solicitors, just like Circuit judges. In a particular trial, they are formally referred to as "The Judge Advocate" and outside of court, they are usually referred to as "judges" and referred to. In court, judges wear legal attire, consisting of a bench wig and a black robe.

In court, judges wear a legal suit consisting of a wig and a black gown. They also wear an army red scarf with blue air and navy edges around their necks. All Judge Advocates also sit in the Crown Court. A Supreme Court judge may also be appointed to preside over the Military Court as Judge Advocate. This is done for very serious or unprecedented cases, as in the Crown Court.

The military court is the most familiar form of SJS for many. The military court has global jurisdiction over all service personnel and service disciplined citizens (e.g., family members, civil contractors, teachers, administrative staff while serving abroad) and handles all types of criminal cases, including murder and serious sexual offenses. will consider. Serious cases, including offenses against civil criminal law, in particular military disciplinary offenses, can be heard in the Military Court, which is a permanent court. Judge Advocate prosecutes each defendant and conducts the trial in all cases, even in the case of a minor disciplinary or criminal offense, in a manner similar to a civil trial. The jury, known as the Council, consists of three to seven officers, or Warrant Officers, depending on the seriousness of the case. After hearing the Judge Advocate's legal instructions and a summary of the evidence, they are responsible for finding the defendants guilty or not guilty. After pleading guilty or guilty, the panel joins The Judge Advocate to reach a verdict. The military court has the same jurisdiction as the Crown Court in imposing prison sentences, including life imprisonment. Most of the sentencing powers under the 2003 Criminal Procedure Code are also available in the Military Court.

The military court reflects the Crown Court in practice, procedure, and sentencing with important additional functions:

- The military court hears a large number of additional war crimes (some of which are punishable by life imprisonment);
- Trials are usually conducted by smaller Councils (arbitrators) of 3 or 5 ordinary members, depending on the severity of the case, and in long or very severe cases by 7 members. Councils on military affairs are composed of military personnel;

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<sup>8</sup> <https://www.judiciary.uk/about-the-judiciary/the-justice-system/jurisdictions/military-jurisdiction/>

- Courts involving civil defendants typically require a civil council of 7 citizens. With the exception of the size of the Council, the proceedings and the procedure for passing judgment are the same as in the Crown Court;
- Judge Advocates remind members of the court of their duties and responsibilities (by jury) at the beginning of each trial;
- Punishment of convicted employees in court or in the event of a confession shall be carried out jointly with the council. The Judge Advocate (JA) chairs the panel on the rules and principles of sentencing and is considered decisive;
- The Military Court will review the full range of custodial and non-custodial sentences available in the Crown Court (excluding the POCA order and deprivation of the right to drive) and according to the Armed Forces Act 2006 may also impose a number of additional penalties, including dismissal. In addition, penalties such as dismissal from Her Majesty's Service, military detention for up to two years, and demotion are applied.
- An appeal from a military court, even for the smallest offenses, is heard in the Military Court of Appeal (reorganized Civil Court of Appeal for Court Martial);
- Most court hearings are conducted by video link with the prosecution and defense, as well as lawyers and defendants.

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