Discussion and Evaluation of the Role of Courts

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 In the pursuit of analyzing the role of courts, it is pertinent to consider whether the courts in the UK work under the jurisdiction or not. Courts at present, are the necessary component of the UK legal system[[1]](#footnote-1). This discussion will analyze the role of courts in the jurisdiction and how effectively they play their part. To initiate the analysis, it is important to consider what the court in the UK legal system is[[2]](#footnote-2). To such effect, in the practice, a court is an authority, which consists of an individual who adjudicates and makes claims, by following the legal practices enshrined by the larger legal system[[3]](#footnote-3). Both in England and Wales, courts are bodies which hear disputes that arise with the breakdown of relationships or agreements between the parties which already had surrendered their authorities in front of the court. However, depending upon the nature of the conflict, there are different levels of court systems like the Magistrate’s Court, the Appellate Court, County Court, Crown Court and her Majesty’s Court etc[[4]](#footnote-4).

 In the UK, the role of the court is important, since it protects the rights of the citizens (enshrined upon them through Constitution) and extends equal protection under the due law. Both the civil and criminal court, offer the opportunity to citizens, that their disputes be heard by the judges who are neutral which keeps the law upright[[5]](#footnote-5). By doing this, the courts in England and Wales, ensure that neither of the defendant nor the claimant party faces any inconsistency in getting the due justice. They therefore, enforce the law in a transparent and a more consistent way. Under a Common Law system, judges have to consider two things - the laws passed by Parliament as legislation, and the decisions made by previous courts as precedent[[6]](#footnote-6). It suggests that the lower courts are bound by the decisions of higher courts, and only the Parliament or the Supreme Court can take the law in a new direction[[7]](#footnote-7).

In understanding how the UK Courts have been upholding the law, it appears pertinent to consider the case of *Donoghue v Stevenson[[8]](#footnote-8)*. Ms. Donoghue was enjoying a beer at a bar when she discovered a snail at the bottom of it. She became very ill, so she decided to sue for the medical costs and time off work. The problem for her was that the law at the time didn't offer a solution; she couldn't see inside the murky bottle, so it wasn't her fault for drinking it - and it wasn't the bar owner’s fault for the same reason. But at this time, there was no precedent for suing the manufacturer for negligence, and the courts had only just rejected the concept of a manufacturer’s liability for negligence when someone sued the Barr soda company. But the courts did something very strange and plucked the justification out of older case law[[9]](#footnote-9). They argued that the manufacturer should, in fact, be liable, and in doing so, fundamentally changed the negligence law without a piece of legislation ever being passed.

To conclude, it is right to argue that the role of courts in England and Wales is imperative, as it prevails in the legal system and is being practiced for a good number of years. In addition to deciding about the cases, the courts provide a regulatory mechanism to the UK legal system. This court system offers fairness, openness and impartiality in the law which prevails in the law system[[10]](#footnote-10). These courts also undertake a review of the constitution and evaluate and present issues which are referred to higher courts and to the Parliament, as well.

# **Bibliography:**

“Civil.” Accessed December 21, 2019. https://www.judiciary.uk/about-the-judiciary/the-justice-system/jurisdictions/civil-jurisdiction/.

“Independence.” Accessed December 21, 2019. https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/jud-acc-ind/independence/.

Neyers, Jason W. “Donoghue v. Stevenson and the Rescue Doctrine: A Public Justification of Recovery in Situations Involving the Negligent Supply of Dangerous Structures.” *U. Toronto LJ* 49 (1999): 475.

Partington, Martin. *An Introduction to the English Legal System*. Oxford University Press, 2000.

Smit, Hans. “The Proposed United States-United Kingdom Convention on Recognition and Enforcement of Judgments: A Prototype for the Future.” *Va. J. Int’l L.* 17 (1976): 443.

1. “Independence,” accessed December 21, 2019, https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/jud-acc-ind/independence/. [↑](#footnote-ref-1)
2. “Independence.” [↑](#footnote-ref-2)
3. Hans Smit, “The Proposed United States-United Kingdom Convention on Recognition and Enforcement of Judgments: A Prototype for the Future,” *Va. J. Int’l L.* 17 (1976): 443. [↑](#footnote-ref-3)
4. Smit. [↑](#footnote-ref-4)
5. “Civil,” accessed December 21, 2019, https://www.judiciary.uk/about-the-judiciary/the-justice-system/jurisdictions/civil-jurisdiction/. [↑](#footnote-ref-5)
6. Martin Partington, *An Introduction to the English Legal System* (Oxford University Press, 2000). [↑](#footnote-ref-6)
7. Smit, “The Proposed United States-United Kingdom Convention on Recognition and Enforcement of Judgments.” [↑](#footnote-ref-7)
8. Jason W. Neyers, “Donoghue v. Stevenson and the Rescue Doctrine: A Public Justification of Recovery in Situations Involving the Negligent Supply of Dangerous Structures,” *U. Toronto LJ* 49 (1999): 475. [↑](#footnote-ref-8)
9. Neyers. [↑](#footnote-ref-9)
10. Partington, *An Introduction to the English Legal System*. [↑](#footnote-ref-10)