



## THE SOURCES OF ENGLISH LAW

XIV SEMINARIO DE ESTUDIO COMPARADO  
DE SISTEMAS JUDICIALES EUROPEOS A  
TRAVÉS DEL LENGUAJE JURÍDICO

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### *The sources of English law*

- 1. **COMMON LAW** (property, personal injuries, breach of contract).
- 2. **EQUITY** (ownership, wills, intestate/testate successions, trusts).
- 3. **STATUTE LAW** (Parliament: acts / statutes; statutory instruments).
- 4. **CASE LAW** (The Judges → judge-made law).
- 5. **EU LEGISLATION + INTERNATIONAL AGREEMENTS** (must be formally incorporated into English law before courts obliged to apply them; e.g. *European Convention on Human Rights and Fundamental Freedoms* –ECHR–, 1950 → *Human Rights Act 1998*).

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### *Common law*

In common law systems (as against civil law systems) **JUDICIAL PRECEDENTS ARE BINDING** as opposed to persuasive.

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## ***Common law***

- **THERE IS NO STATUTE MAKING MURDER ILLEGAL.** It is a **common law crime**, so although there is no written Act of Parliament making murder illegal, it is illegal by virtue of the constitutional authority of the courts and their previous decisions.
- Common law, however, can be amended by Parliament.
  - Example: murder carries a mandatory life sentence today, but had previously allowed the death penalty.

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## ***Statute law***

### **Also “enacted law”**

- Written laws or legislation passed by Parliament.
- Types:
  - (1) Acts of Parliament (statutes)
  - (2) Delegated legislation (statutory instruments or SIs: ministerial orders, regulations, rules, local bye-laws, etc.). Approx. 3,000 each year.
- On the increase the last few years.

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## ***Case law***

**Body of law created by judges’ decisions on individual cases.**

**Also called “judge-made law”**

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***Case law***  
**Law Reports**

- Modern Law Reports (1865 - to present): Incorporated Council of Law Reporting.
- Earliest reports of particular cases: between 1275 & 1535 (Year Books).
- Because some cases lay down important legal principles, over 2,000 each year are published in law reports.

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