

Second Theme: The Concept of the Legal Rule and its Characteristics First: The meanings of the legal rule Jurisprudence defined the law on the basis of experts and on the basis of the end and based on the distinctive characteristics of its rules, but the prevailing trend takes the definition of law by citing the distinctive characteristics of its rules and the following definition is one of the most important definitions of the whole and comprehensive concept of law, the law is a set of general and abstract rules that govern the behavior of individuals and their relationships, which is entrusted with ensuring respect for what the public authority in society has the power of reparation and obligation, and therefore we conclude three essential characteristics that distinguish the legal base from other social rules which governs relations within society, and is represented in that it is a binding rule .In other words, if the legal rule relates to public order and morals, it is a peremptory norm, and if the legal rule is not related to public order and morals, it is a complementary rule, what do we mean by these terms?The legal rule is a rule of social conduct: The general principle that the legal base exists where the community exists, and it is necessary to regulate what arises between the members of this community between relations and ties, the law does not regulate in man, except what appeared from his behavior, so the law has nothing to do with the intentions of man or his feelings or his conscience, he does not care about hidden hatred, but intervenes for the occurrence of harmful behavior that takes a harmful external appearance, the mere thought of someone in committing a crime and the determination to do so, does not make this person a reality entitled to the penalty of the law, as long as That this thinking did not appear abroad with visible material works that indicate it. This does not mean that the legal rule governs only the external conduct of individuals that the law does not have an effect or consequence on intentions if they are accompanied by and related to external conduct, but rather that they are taken into account.Third: Types of legal rules The issues that the law regulates vary and their importance varies for achieving order and stability of relations within society, important issues for which the legislator has set legal rules that individuals cannot exclude their provisions or agree among themselves to violate their provisions or agree among them to violate their provisions, jurisprudence calls them jus cogens legal rules, while ordinary and simple issues that do not mean the order of society, but directly concern personal correctness, the law left it to their owners to regulate them, but the law intervenes for the purpose of helping those concerned in organizing their relations in detail about The path of legal rules that jurisprudence has settled on calling complementary legal rules.Peremptory norms: The commentators of the law defined the jus cogens legal rule as those legal rules that may not be agreed to violate their provisions or evade their content, and every agreement to the contrary is null and void, they are absolute rules of application, there is no freedom of individuals with regard to everything that affects them by amendment or exclusion, as they represent the supreme will of society to legalize an activity in some way.However, there are legal rules, although they do not address all individuals, but they are characterized by generality and abstraction, as their ruling goes to a particular sect, as long as it addresses the members of this community in their capacities and not themselves, for example, the legal rules for lawyers or notaries, as well as may apply to one person, such as the head of government, yet they address him in his capacity and not in himself, defining his qualities and regulating the manner in which he performs his duties.Also, the legal rule is considered complementary if the words used by the legislator to address

those bound by its provisions indicate that individuals may agree to violate its provisions, such as: "unless this right is granted by agreement" and "unless otherwise required", "and unless the agreement provides otherwise" For example, Article 350 of the Civil Code states: "Anyone who embezzles something that does not belong to him is considered a thief and shall be punished by imprisonment from one to five years and a fine of 100.000 to 500.000 dinars..." For example, article 368 of the Algerian Civil Code states: "Therefore, the thing sold must be exported to the buyer, and the sale shall not be effected unless it reaches it, unless there is an agreement to the contrary." Be material: We mean by tangible material that it takes an external appearance embodied in the coercion that affects the violator, whether in his money or body, or restricts his freedom, contrary to other rules such as morals, for example, which are limited to moral retribution. Types of penalty: In the legal rule, the penalty takes different types, which can be summarized as follows: 5.2.3.1.2.3.4.6.1.2.3.1.2