

АНГЛИЙСКИЙ ЯЗЫК

ДЛЯ МАГИСТРАНТОВ
ДНЕВНОГО И ВЕЧЕРНЕГО ОТДЕЛЕНИЙ



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Настоящее пособие предназначается для магистрантов дневного и вечернего отделений ОИ МГЮА. Цель данного пособия – последовательное обучение студентов грамматике и правовой лексике английского языка на основе образовательных текстов, адаптированных для студентов-юристов.

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Предисловие

Настоящее пособие предназначается для магистрантов дневного и вечернего отделений ОИ МГЮА имени О.Е.Кутафина. Цель данного пособия – последовательное изучение правовой лексики на основе образовательных текстов, объединенных в пять тематических блоков: "Право и источники права", "Уголовное и гражданское право", "Судебный процесс", "Международное право", "Профессия юриста".

Виды заданий, предлагаемых в учебном пособии:

BEFORE READING - задание выполняется до прочтения тематического текста

SCANNING - подробное изучение текста

LEXIS - лексический минимум, который необходимо усвоить при изучении текста

QUESTIONS - вопросы к прочитанному тексту

AGREE OR DISAGREE - задание предполагает оценку соответствия предложений содержанию изученного материала; если предложение не соответствует действительности, то необходимо внести соответствующие изменения и дать исправленный вариант предложения

SUPPLEMENT FURTHER INFORMATION - задание, предполагающее поиск дополнительной информации по изучаемой проблеме

DEBATES - спорные суждения, выносимые для детального обсуждения темы и для обоснования студентами своей точки зрения по заявленной проблеме

KEY WORDS - ключевые слова по изученной теме; необходимо дать толкование каждого из них, используя материал прочитанных текстов

Unit 1. Law and its Sources



1.1. SCANNING

Sources of Law Part 1

1. The main sources of modern United Kingdom law are:

- (i) legislation of the European Union (EU);
- (ii) legislation by Parliament or powers delegated by Parliament;
- (iii) case law from cases decided by judges in English, Scottish or Northern Irish courts.

Legislation of the European Union consists of primary legislation and secondary legislation.

2. Primary EU legislation consists of a number of treaties, protocols, council decisions, etc, the principal of which is the Treaty of Rome, which founded the European Economic Community. This legislation can be directly enforced through the courts of Member States if the state's domestic legislation does not give the rights which the European legislation contains. Legislation which may be directly enforced against the State is said to have a 'vertical effect'. Legislation which may be directly enforced against individuals (here we include legal individuals such as limited liability companies) is said to have a 'horizontal effect'.

3. Secondary EU legislation may be made under the authority of Article 189 of the Treaty of Rome in the form of:

- (a) regulations;
- (b) directives; and
- (c) decisions.

4. EC regulations are directly applicable, both vertically and horizontally. EC directives are said to be solely 'vertical' in effect, in that they are addressed to the Member States and the state must give legislative effect to them before they become law.

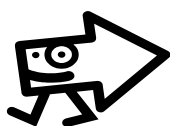
5. Decisions of the Commission may be addressed to a Member State, to a number of Member States, or to an individual. The decision is binding on those to whom it is addressed. A decision may be appealed against in the European Court of Justice.

6. Decisions of the European Court of Justice are also of great importance. Any national court or tribunal dealing with a case which raises issues of Union legislation may refer the matter to the European Court of Justice (ECJ), for a ruling regarding the interpretation of the legislation.

7. **Legislation by Parliament** or enacted law consists of laws made by or under the authority of Parliament and may be:

- Statutes or Acts of Parliament;
- *Orders in Council* made by the Queen in *Privy Council* (in practice, a Minister *drafts* and makes them *in the name of* the Queen);
- *rules and regulations* made by Ministers, but they must be *submitted* to Parliament for approval;
- *bylaws* made by local authorities, they require the approval of the appropriate Minister before they have legislative force.

8. In England the **decisions of courts** are treated with respect, and they are regarded as «precedents». The feature of their national system is the *hierarchical* authority of the courts: an *inferior court* is obliged to follow a court of *superior* authority if decides upon facts similar to facts already *tried* by the superior court. The precedents formed by *decided cases* are thus the «*anchors of the laws*».



LEXIS

legislation - законодательство; законодательный акт; закон; законодательная деятельность, нормотворческая деятельность

case law - прецедентное право

protocol - протокол; дополнительное международное соглашение

directly enforced – применяемый напрямую, непосредственно

regulations - обязательные постановления

directive - директива, руководящее указание, распоряжение

give legislative effect – наделять нормативным значением

be binding - имеет обязательную силу

raise issue – порождать спорный вопрос

ruling - постановление, определение, решение (суда)

by or under the authority – самостоятельно или по поручению

order in council - "королевский указ в совете" (правительственное распоряжение, одобренное монархом и не требующее рассмотрения в парламенте)

Privy Council - Тайный совет (в Великобритании)

draft - писать черновик, делать набросок

in the name of - от имени; именем

rules and regulations - правила и предписания

submit - представлять на рассмотрение

bylaws - подзаконные нормативные акты

hierarchical - иерархический

inferior court - нижестоящий суд

superior court - высший суд; вышестоящий суд

be tried - находиться на рассмотрении суда

decided case - судебное дело, по которому принято решение

anchors of the laws – правовые "привязки/ссылки", фиксаторы правовых норм

1.2. SCANNING

Part 2

1. In general, law in the United States today comes from five main sources: Constitutional Law, English Common Law, Statutory Law, Court Decisions, Administrative Law. Although these sources may seem different, they all pertain to the law in some way.

2. **Federal and State Constitutions.** A country's Constitution spells out the principles by which the government operates, sets forth the fundamental rights of citizens, defines the limits within which the federal and state governments may pass laws. In addition, the Constitution describes the functions of the various branches and divisions of our national government. The Constitution now has 27 amendments. The first 10 amendments, ratified in 1791, are called the Bill of Rights. They limit the powers of the government. The basic purpose of the Bill of Rights is to protect two kinds of rights: rights of individual liberty and rights of persons accused of crimes.

3. Each state in the USA has its own constitution. Although similar, state constitutions are not identical to the federal Constitution. They can be more protective, specified, and more restrictive than the federal Constitution.

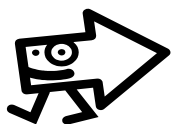
4. **English Common Law.** The legal system of all states, except for Louisiana, (where the influence is more French) is rooted in English common law and equity law (a system of laws that have been developed from customs, and from decisions made by judges, not created by Parliament). The early American colonists came from England, so it was natural for them to adopt the law of England in their new land. Under the common law doctrine of precedent, a judge is required to follow an earlier court decision when deciding a case with similar circumstances. It is also sometimes called the doctrine of stare decisis, which means, "let the decision stand."

5. **Statutory Law.** Statutes are laws specifically passed by a governing body that has been created for the purpose of making laws. Laws passed by the U.S. Congress, state legislatures, local city councils, or town meetings can all be called statutory law. Statutory law is found in state and federal statutes, city ordinances, and town bylaws.

6. **Court Decisions.** Most people are surprised to learn that courts make law. Courtmade law is often called case law, court decisions, and judge-made law. Courts make law in three ways: through the common law tradition (precedents), by interpreting statutes (explaining the meaning of legal norms in a case of dispute), and by judicial review (checking the constitutionality of all laws and government actions).

7. **Administrative Law.** Federal, state, and local legislatures sometimes give the power to regulate a particular kind of activity to an administrative agency. Also called a regulatory agency, these agencies are departments of government formed to administer particular legislation. For example, the Federal Communications Commission regulates broadcasting.

8. Administrative agencies can make their own rules, enforce their rules, investigate violations of their rules, and decide the guilt or innocence of those who violate their rules. Administrative law consists of those rules and procedures established by regulatory agencies. However the legislature that created an agency has the power to end that agency's existence or to change its powers. Any final decision by an agency can be reviewed by a court.



LEXIS

statutory law - статутное право, право, выраженное в законодательных актах

pertain to - иметь отношение к, принадлежать

spell out – разъяснить, объяснять точно или обстоятельно

set forth – излагать, формулировать

pass laws - принимать законы

amendment – поправка

accuse of - обвинять в

specified - подробно описанный

be rooted – уходить корнями (исторически), происходить (из)

common law - неcodифицированное право, общее право, англо-саксонское право

equity law - право справедливости

precedent - судебный прецедент

stare decisis – *лат.* обязывающая сила прецедентов, "стоять на решённом"

legislature - законодательная власть; законодательный орган

city council - городской муниципальный совет

ordinance - указ, распоряжение; предписание; постановление

judicial review - судебный контроль; обзор судебной практики

regulatory agency - орган государственного регулирования

broadcasting - радио- или телевизионное вещание

investigate - расследовать; получать сведения

guilt - виновность; наказуемость

innocence – невиновность

end – прекращать

existence – существование



1.3. QUESTIONS

1. Are the main sources of law in the USA and Great Britain the same?
2. How do the courts in common law countries make law?
3. Is Community Law a part of domestic law of England? What prevails in the event of conflict?
4. Is the US Constitution more restrictive than the constitutions of individual states?
5. What are the components of common law?
6. What are the types of British legislation?
7. What authorities pass legislation in England?
8. What is regarded as «precedent»?
9. What is the basic purpose of the first ten amendments to the US Constitution?
10. What sources of law are referred to as primary EU legislation?
11. What synonyms of the term “case law” are given in the text above?
12. Why is it important to be able to distinguish between the U.S. Constitution and statutory law?

1.4. AGREE OR DISAGREE

1. Administrative agencies in America have the power to end the existence of any state or federal legislature or to change its powers.
2. EC directives and regulations are directly applicable.
3. In England the decisions of higher courts are treated with respect.
4. In England written law is predominant.
5. Rules, made by Ministers of the British Government, need not be submitted to the Parliament.
6. The courts in common law countries are the interpreters and declares of the law.
7. The legal system of Louisiana as well as in all other states is rooted in common law.

1.5. SUPPLEMENT FURTHER INFORMATION on the topic “Sources of law”.

1.6. DEBATES. According to the foregoing text, the decisions of courts are treated as an essential source of law in Great Britain and the USA. Is it possible to adopt the same approach in Russia?



1.7. SCANNING

Classification of Law

1. There are different ways of classifying various spheres of law. First of all the system of law may be represented by a

great number of **different branches**, among them are the following:

- Constitutional law is a leading branch of the whole legal system. It deals with frame of society, state structure, organization of Government and legal status of citizens.

- Administrative law is a body of rules applicable to the operations of the executive branch of government.

- Criminal law defines the general principles of criminal responsibility, individual types of crimes and penalties applied to criminals.

- Civil law deals with civil relationships such as citizenship, marriage, divorce, and certain contractual arrangements.

- Financial law regulates taxation, budget, social security, insurance, pensions, investments and other spheres of financial activity.

5. Some other grounds for classifying law are the following:

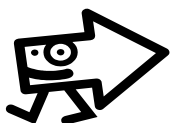
Substantive and **Adjective Law**. Substantive law defines the rights and duties of persons; it determines a wide variety of matters - for example, what is required to form a contract, what the difference is between larceny and robbery, when one is entitled to compensation for an injury, and so on.

6. Adjective law (or procedural law) defines and deals with procedures for enforcing the rights and duties of persons. The rules of procedure and jurisdiction determine the court or administrative agency that may handle a claim or dispute; the form of the trial, hearing, or appeal; the time limits involved; the kinds of evidence that may be presented.

7. **Public** and **Private Law**. Public law is that area of law that deals with the state and the relations of the state with the public. It includes such branches as Constitutional, Administrative and Criminal law.

8. Private law involves the various relationships that people have with one another and the rules that determine their legal rights and duties among themselves. Private Law is sometimes referred to as Civil law in its general meaning.

9. **International** and **National Law**. National law is a set of written and unwritten rules by which a particular country is governed and the activities of people and organizations are controlled within a given state. International law deals with general principles, norms, and standards that apply between sovereign states and other entities legally recognized as international actors. International law is the law of the whole international community.



LEXIS

frame of society - социальная система

applicable - применимый, подходящий

define - задать (процедуру); определить, описать

criminal responsibility - уголовная ответственность
apply to - использовать, применять
citizenship - гражданство
contractual arrangements – договорные соглашения, отношения на
контрактной основе
taxation - налогообложение
social security - социальное обеспечение, социальное страхование
insurance - страхование
larceny - воровство, кража
robbery - кража; грабеж
be entitled to - иметь право, быть уполномоченным
injury - вред, повреждение, порча, убыток, ущерб
handle - обращаться с, прорабатывать; обсуждать, разбирать
claim – иск; претензия
dispute - спор
trial - судебное разбирательство; судебный процесс, суд
hearing - разбор, слушание дела
appeal - апелляция
time limits - предельный срок, регламент
evidence - улика; свидетельское показание
operative within – действующий внутри, в пределах
binding – обязательный
entity - самостоятельная правовая единица, субъект права



1.8. QUESTIONS

1. How may laws be classified?
2. What law serves as a leading branch of the whole legal system?
3. What does Substantive law define?
4. What is a difference between International and National law?
5. What branches of law does Public law include?
6. What does Adjective law deal with?

1.9. AGREE OR DISAGREE

1. The powers of government cannot be restricted by laws.
2. International law is an equivalent of Internal law.
3. Constitutional law regulates private affairs among citizens.
4. The Constitution is a supreme law, thus it can't be changed or amended.
5. Labour law and Administrative law cover matters arising from contracts.
6. Family matters are resolved under Financial law.
7. Public law includes Constitutional, Administrative, Civil and Criminal law.

1.10. SUPPLEMENT FURTHER INFORMATION on the topic “Law: its nature and classification”.

1.11. KEY WORDS

| | |
|-----------------------|-------------------|
| adjective law | legislature |
| administrative agency | national law |
| branch of law | precedent |
| bylaw | private law |
| case law | public law |
| common law | regulation |
| court | rights and duties |
| executive | source of law |
| inferior court | statute |
| international law | substantive law |
| judicial review | superior court |
| legal rule | to apply |
| legal system | to enforce |
| legislation | to make a law |
| legislative | to regulate |



1.12. MAKE A REPORT on the topic “Law and its Sources”, paying attention to the following points in your speech:

- nature of law;
- legislation and court decisions as sources of Anglo-American law;
- different types of legislation;
- different grounds for law classifications;
- characteristics of particular branches of law.

Unit 2. Criminal and Civil Law



2.1. SCANNING

Criminal Law Part 1

1. The most useful classification of *legal liability* for practical purposes is into *civil* and *criminal*. The basic difference is that an *infringement* of criminal law *renders* you *liable* to *prosecution* and, if you are *convicted*, you are liable to be *punished*; an *infraction* of the civil law means that the *injured party* may *sue* you and, if you are found liable, you are likely to have to pay a monetary compensation called *damages* or have some other *remedy* awarded against you.

2. One important reason for being able to distinguish between criminal and civil liability is that you can always compromise a claim in relation to the civil law, that is, you can bargain with the claimant (the person or company which is bringing the action against you) with a view to avoiding court action.

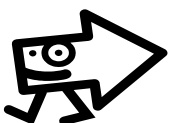
3. Criminal law deals with criminal liability by assigning crimes and fixing punishments for them. Also included in criminal law are rules and procedures for preventing and investigating crimes and prosecuting criminals, as well as the regulations governing the constitution of courts, the conduct of trials, the organization of police forces, and the administration of penal institutions.

4. As a matter of fact criminal law is based on a number of universal principles. Here are some of them:

- there is a presumption that the accused is innocent and the prosecution must prove his guilt beyond reasonable doubt;
- responsibility can exist only in the presence of guilt;
- a person may not be considered guilty unless all elements of an alleged crime (corpus delicti) have been established in his acts;
- criminal punishment shall be applied only by a sentence of the court.

5. The following general defences may excuse the accused from criminal responsibility:

- lack of age (if an offender is under 14 he is incapable of committing a crime);
- self-defence (when people have good reason to believe they are in danger of serious injury or death, they can use force to protect themselves);
- defence of family members (courts will not punish someone for using force to rescue a family member from attack if there was good reason to believe the victim was in danger of severe bodily injury or death);
- insanity (but everyone is presumed sane until the contrary is proved);
- duress by threats or duress of circumstances;
- automatism (it may arise as the result of a reflex action or concussion);
- entrapment (if a law enforcement officer induces a law-abiding citizen to commit a crime, which would not have been committed without the involvement of the officer).



LEXIS

legal liability - ответственность перед законом, ответственность, признаваемая судом
civil - гражданский (о деле, ответственности)

criminal - криминальный, уголовный
infringement - нарушение закона/правила/контракта
render – превращать, приводить в какое-либо состояние
liable - подлежащий (чему-л.), ответственный, несущий ответственность
prosecution - уголовное преследование
convicted - признан по суду виновным
punish – наказанный, подверженный наказанию
infracton – нарушение, несоблюдение (права, закона, договора, обязанности)
injured party - потерпевшая сторона
sue - преследовать судом; подавать в суд, возбуждать иск, предъявлять иск
damages - возмещение убытков, компенсация за убытки
remedy - средство судебной защиты, средство защиты права
compromise a claim – урегулировать спор мировой сделкой, заключать мировую сделку до суда
bargain - договариваться; вести переговоры
claimant - истец; сторона, заявляющая требование
bring action - возбудить иск, предъявить иск
crime - преступление; злодеяние, нарушение, правонарушение
fix - устанавливать, фиксировать; закреплять
prevent - предотвращать, предупреждать
investigate - расследовать; изучать (вопрос); рассматривать (дело)
constitution of courts - устройство судов, структура судебной системы
police force - полицейские силы, полиция; полицейское подразделение
administration – руководство, управление
penal institution - исправительное учреждение; пенитенциарное, карательное учреждение; пенитенциарий; тюрьма
innocent - невиновный
beyond reasonable doubt - при отсутствии разумных оснований для сомнения
responsibility - ответственность; способность отвечать за содеянное
guilt - вина; виновность
corpus delicti - состав преступления
punishment - кара, наказание
defence - 1) обстоятельство, освобождающее от ответственности; 2) защита (на суде); аргументация ответчика, подсудимого; возражение по иску, обвинению; возражение ответчика, подсудимого

lack of age - несовершеннолетие (моложе установленного законом
возраста, лишь по достижении которого наступает полная
гражданская дееспособность)
commit a crime - совершить преступление
self-defence - самозащита, самооборона
injury - увечье; травма; вред, ущерб
victim - потерпевший
sane - находящийся в здравом рассудке; вменяемый
insanity – невменяемость, душевное расстройство
duress by threats - противозаконное принуждение под угрозой на-
силия, принуждение путём запугивания
duress of circumstances - принуждение под влиянием обстоя-
тельств
concussion - контузия, сотрясение
entrapment - провоцирование на уголовно наказуемое действие,
провокация преступления с целью его изобличения

2.2. SCANNING

Civil Law Part 2

1. Although most *laymen's* perception of law is associated with criminal acts, in fact the greater part of our law is civil law. For the most part civil law is concerned with the rights and duties of individuals (including legal individuals such as limited liability companies) *as between* themselves. Among civil law branches are such as Family law, Property law, *Civil Rights law*, *Media law*, Education law, *Consumer protection law*, Environmental law, etc.

2. The main areas of civil law with which a *business* may *be concerned* are:

Law of contract. This is concerned with the *enforcement* of promises, usually in the form of agreements. Such agreements may be formal written agreements or informal oral agreements, or even agreements to *be implied* from conduct.

3. **Law of tort.** A *tort* is a civil wrong, other than a breach of contract or a *breach of trust* (both of which are civil wrongs but are not torts), which may be remedied by an *action for damages*. Unlike contract the duty which is breached in committing a tort is fixed by the law, whereas the duty which is breached in committing a breach of contract is a duty *undertaken* voluntarily as a result of a promise to the other party. There are quite a number of individual torts: e.g. *negligence*, *nuisance*, *trespass* (to person, to goods, or to land), defamation, and *deceit*.

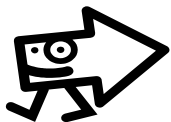
4. **Commercial law.** This law comprises the rules relating to specific types of contract such as sale of goods, supply of services, hire purchase, insurance, consumer credit, carriage of goods, etc.

5. **Company law.** This is the field of law concerning companies, corporations, partnerships and other business organizations. It also specifies the relationship between a business entity and outside parties who commercially interact with it.

6. **Labour law.** This can be divided into two parts. First, there is employment law - the part which regulates individual employment rights, for example, the rules relating to unfair dismissal, the right to redundancy payment, equal pay, etc. Secondly, there is industrial law - the part which relates to collective activity, for example, the law relating to industrial action, admission to and expulsion from trade unions, etc. Some employment law, particularly in the area of health and safety, is criminal law.

7. **Land law.** The main areas which concern businesses are the law relating to the relationship of landlord and tenant and planning law.

8. It is extremely important to understand that a particular course of conduct can give rise to consequences in both civil law and criminal law at the same time. For example, the crime of murder (and most other criminal offences involving physical injury) will at the same time involve the torts (that is, the civil wrongs) of assault and battery. The crime of causing criminal damage will amount to the tort of trespass to goods. The crime of causing death by dangerous driving will amount to the tort of negligence.



LEXIS

laumen – непрофессионал, неюрист, неспециалист
as between - в отношениях между

Civil Rights law - законодательство в области гражданских прав

Media law – законодательство о средствах массовой информации

Consumer protection law - закон о защите потребителей

business - предприятие, фирма, компания, бизнес

be concerned - иметь дело

enforcement - принудительное применение (права, закона); правоприменение; принудительное проведение в жизнь; принуждение к выполнению требований

be implied – подразумеваться

tort - деликт, гражданское правонарушение

breach of trust - нарушение доверенным лицом своих обязанностей, предусмотренных договором, в пользу бенефициара

action for damages - иск о возмещении убытков

undertake - брать на себя определённые обязательства, принимать на себя
negligence - небрежность; невнимательность, халатность
nuisance - помеха, неудобство; нарушение покоя, вред, источник вреда, «зловредность» (в частности, причинение собственнику недвижимости помех и неудобств в пользовании ею)
trespass - противоправное нарушение владения с причинением вреда
deceit - обман, намеренное введение в заблуждение
sale of goods - , продажа товара; закон, описывающий права покупателя и продавца
supply of services - продажа и предоставления услуг
hire purchase - покупка или продажа в рассрочку
insurance – страхование
consumer credit - потребительский кредит
carriage of goods - перевозка товаров
partnership - товарищество, партнерство (некорпорированная фирма, которой управляют несколько компаньонов)
business entity – предприятие
outside parties – зд. лица, не являющиеся членами/работниками фирмы (компании, предприятия)
employment law - трудовое право
employment - приём на работу, трудоустройство
unfair dismissal - несправедливое увольнение
redundancy payment - пособие при увольнении в связи с сокращением
industrial law - производственное право, закон о внутрипроизводственных отношениях
industrial action - забастовочное движение
trade unions - профессиональные союзы
landlord - собственник недвижимости
tenant – арендатор
planning law – законодательство о землеустройстве
particular course of conduct – определенное поведение, конкретные действия
give rise - служить поводом, вызывать, влечь
murder - умышленное убийство
assault and battery - оскорбление действием
dangerous driving - опасное вождение



2.3. QUESTIONS

1. Give examples of general defences that may excuse the accused from criminal responsibility?
2. In what way does criminal liability differ from civil one?

3. Is the origin of legal liability the same in a case of tort and in a breach of contract?
4. May a defence be connected with the age of an offender?
5. What are the general principles which Criminal Law is based on?
6. What does a presumption of innocence mean?
7. What does criminal law define?
8. What does the law of tort deal with?
9. What is a difference between Commercial Law and Company Law?
10. When is criminal punishment applied?

2.4. AGREE OR DISAGREE

1. A particular course of conduct can fall under both civil law and criminal law at the same time.
2. A person may be considered guilty as soon as any element of an alleged crime has been established in his acts.
3. Children under 16 are excused from criminal responsibility.
4. Criminal Law not only defines crimes and fixes punishments for them but also includes some procedures for preventing crimes.
5. Insanity is usually treated as aggravating circumstances.
6. Labour law can be divided into seven parts.

2.5. SUPPLEMENT FURTHER INFORMATION on the topic “Criminal and Civil law”.

2.6. KEY WORDS

action for damages
civil law
company law
conduct
corpus delicti
crime
criminal law
defences
guilt
injured party
labour law

law of contract
law of tort
liability
negligence
presumption of innocence
prosecution
punishment
to commit a crime
to prosecute
to punish
victim



2.7. MAKE A REPORT on the topic “Criminal and Civil law”,

- paying attention to the following points in your speech:
- criminal law and criminal liability;
 - universal principles of criminal law;
 - defences from criminal liability;
 - nature of civil law;
 - different branches of civil law;
 - comparison of branches of law: civil and criminal one.

Unit 3. Judicial Proceedings



3.1. SCANNING

Civil Trial Procedure Part 1

1. Criminal and civil trials begin differently. The government brings criminal cases for offenses committed against the public at large. In contrast, individuals who believe they have been injured initiate civil cases. The injured party begins the suit by filing a complaint with the court. When an individual brings a civil case he or she may ask a lawyer to investigate the case, which can be expensive. As a result, people have begun to explore alternatives to lawsuits.

2. **Alternative dispute resolution (ADR)** is an increasingly popular process that occurs when parties try to resolve disagreements outside of the usual adversarial system by using creative settlement techniques. In ADR, the methods used are relatively quick and inexpensive. They can be classified in two ways: reactive methods and proactive methods:

| Reactive Methods | |
|---------------------------------------|--|
| <u>Mediation</u> | Mediation happens when the parties to a dispute invite a third party into the decision-making process to help them find a solution. |
| Arbitration | Arbitration happens when the parties actually transfer the power to <u>settle their dispute</u> to a third party. |
| Med-arb | Med-arb combines the best aspects of mediation and arbitration. |
| <u>Early Neutral Evaluation (ENE)</u> | During ENE, an evaluator examines the facts and the law, makes an <u>impartial evaluation</u> of the legal rights of each party, and determines the amount of the <u>award</u> . |
| Summary Jury Trial | A <u>summary</u> jury trial is a short trial that runs less than a day before a real jury, which then renders a verdict. |
| <u>Private Civil Trial</u> | In a private civil trial, the parties can <u>hold the trial</u> at a time and a place of their own choosing. |
| Proactive Methods | |
| <u>Partnering</u> | Partnering involves a process by which the parties to a <u>long and involved contract</u> agree to meet to <u>get to know</u> one another <u>in advance</u> . |

| | |
|-------------------------------|---|
| <u>Negotiated Rule Making</u> | During negotiated rule making, an agency that is about to create a new rule or revise existing rules meets with the parties who will be affected by the new rules. The parties then write the new rules together. |
| <u>Science Court</u> | The science court acts as a forum for disputes involving scientific and technological <u>controversies</u> . |

3. **Reactive Methods.** These types of ADR are used after a dispute has arisen. The oldest forms of reactive ADR are mediation and arbitration. “Mediation” occurs when parties to a dispute invite a third party, usually called a mediator, to help them find a solution. A mediator persuades the parties to reach a compromise without making their decision for them.

4. On the other hand, when the parties give the power to settle their dispute to a third party, the process is called “arbitration”, and the person engaged is called an arbitrator. A new form of ADR known as “med-arb” combines the best aspects of mediation and arbitration. The disputing parties first go through mediation. If the problem is not solved, they move on to an arbitration hearing.

5. Another new form of ADR is known as “early neutral evaluation”. An evaluator examines the facts, determines the legal rights of each party, and decides the amount of award that should be rendered, if any.

6. A “summary jury trial” is a short trial that runs before a real jury, which renders a verdict. The verdict is advisory but helps the parties see how a real jury would react to the case.

In some states the parties can hold a private civil trial, choosing a judge whose decision is binding.

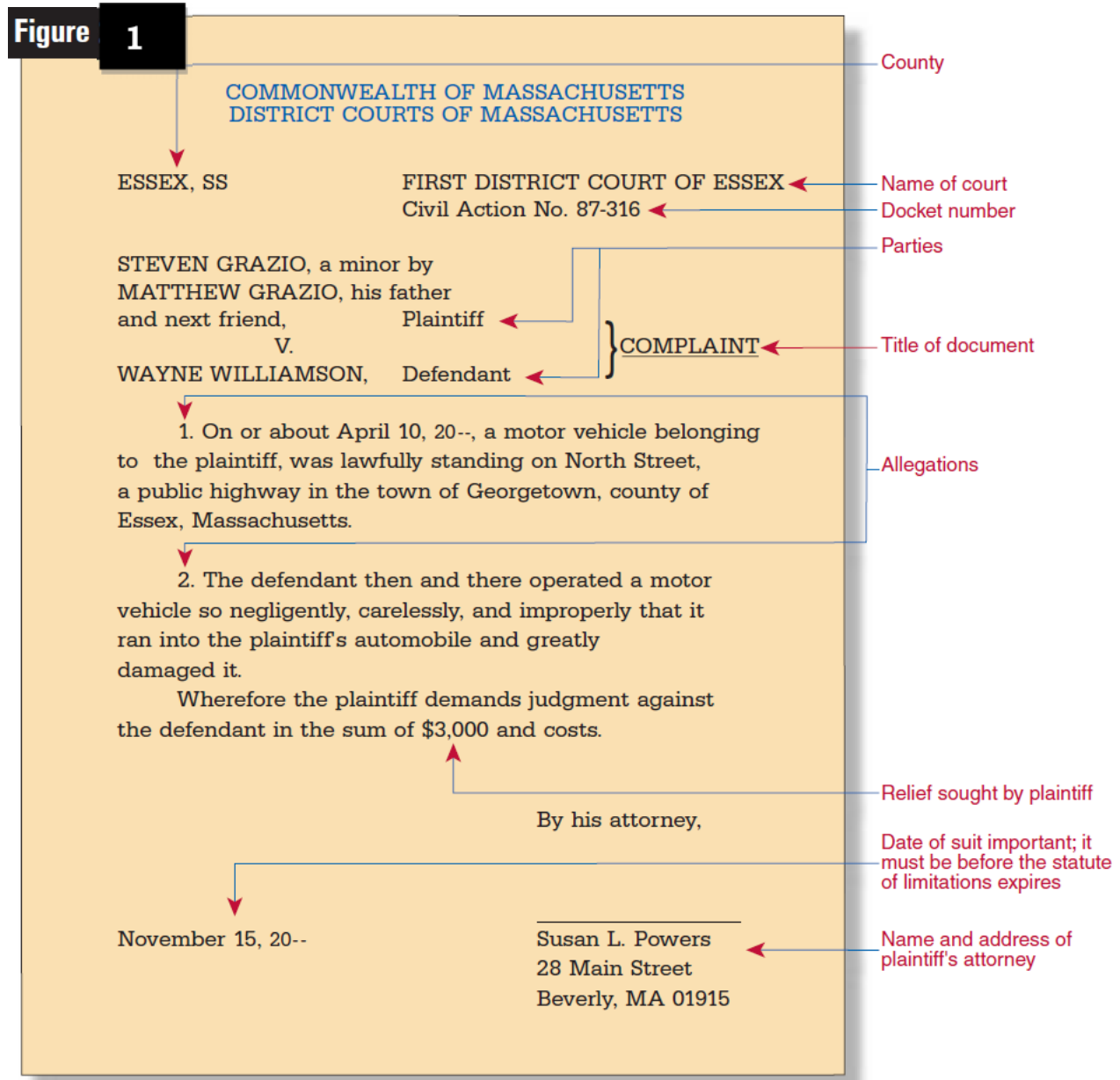
7. **Proactive methods** are discussed before a dispute even arises. These methods can be effective in preventing major disputes among parties involved in business dealings. Some businesses agree in advance to use one of the ADR tools if a disagreement between the parties arises later.

8. In “partnering”, parties to a long and involved contract agree to meet to get to know one another in advance. During this meeting, they create rules for resolving disagreements.

9. Another proactive ADR method is “negotiated rule making”. In this process, an agency that is about to create a new rule or revise existing rules works with people who will be affected.

10. Finally, the government might get involved in ADR through a “science court”, which acts as a forum for disputes involving scientific and technological controversies. These disputes involve matters such as genetic engineering, nuclear energy research, and so on.

11. **Pleadings.** Civil trials begin with pleadings, the formal papers *filed with the court* by the *plaintiff* and *defendant*. These papers express the plaintiff's *allegations* in the form of a complaint (see Figure 1). The defendant's *response* to those allegations is known as the answer (see Figure 2).



12. Methods of *discovery* are employed to bring facts out before trial. These methods include *depositions*, *interrogatories*, *requests* for documents and other *evidence*, physical and mental *examinations*.

13. **Pretrial Hearing.** Before the actual trial takes place, a *pretrial hearing* usually occurs. This hearing is an informal meeting before a judge. It is intended to *simplify* the issues and discuss matters that might help *dispose of the case*.

Figure 2.

COMMONWEALTH OF MASSACHUSETTS
DISTRICT COURTS OF MASSACHUSETTS

ESSEX, SS

FIRST DISTRICT COURT OF ESSEX
Civil Action No. 87-316

STEVEN GRAZIO, a minor by
MATTHEW GRAZIO, his father
and next friend, Plaintiff

v.

WAYNE WILLIAMSON, Defendant

} DEFENDANT'S ANSWER

1. The defendant has no knowledge or information sufficient to form a belief regarding the truth of the allegation of paragraph one of the complaint.

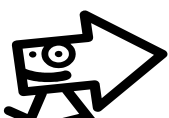
2. The defendant denies the allegations of paragraph two of the complaint.

3. Further answering, the defendant says that at the time of alleged accident, the plaintiff's motor vehicle was parked next to a fire hydrant. This violated the law and caused or contributed to the causing of the damages complained of.

By his attorney,

December 10, 20--

George Rodriguez
792 Washington Street
Peabody, MA 01960



LEXIS

bring a criminal case - возбуждать уголовное дело

public at large - широкая общественность, всё население
в целом

file a complaint - подавать жалобу

alternative dispute resolution - альтернативное решение конфликт-

ной ситуации (без привлечения правоохранительных органов)

adversarial system – состязательная система, процесс с участием
 противоборствующих участников

reactive – ответный, последующий, противодействующий

proactive – упреждающий (нацеленный на предотвращение)

mediation – посредничество, вмешательство с целью примирения

settle dispute - урегулировать спор/конфликт

early neutral evaluation – предварительное оценивание непредвзя-
 тым экспертом

impartial evaluation – объективное, непредвзятое оценивание

award - решение (суда, жюри, арбитража)

summary – упрощённый

render a verdict – выносить вердикт

private civil trial – закрытое слушание гражданского дела

hold trial - проводить судебное разбирательство, вершить судебное
 разбирательство

partnering – налаживание партнерских отношений

long and involved contract - долгосрочный договор с большим коли-
 чеством условий

get to know – знакомиться

in advance – заранее, предварительно

negotiated rule making - выработка норм и правил путём перегово-
 ров

science court – суд по решению споров в сфере науки и техники

controversies – спор, разногласие

arise - возникать, появляться

arbitrator - третейский судья, арбитр

advisory – рекомендательный, консультативный

in advance – предварительно, заранее

pleadings - заявления, подаваемые в суд (которыми неоднократно
 обмениваются стороны в ходе процесса) б) судебные прения,
 судоговорение (формальная сторона судебного процесса)

file with the court – официально обращаться в суд, подавать иск в
 суд

plaintiff - истец (лицо, подающее иск)

defendant - ответчик по делу в суде

allegation – утверждение, заявление (в суде)

response - ответ

discovery - раскрытие, представление сведений, документов; на-
 хождение документов, которые могли бы послужить поддерж-
 кой в доказательстве требований той или иной стороны

deposition - письменные показания под присягой

interrogatories - письменный опрос сторон. или свидетелей

request – запрос, ходатайство

evidence - улика; свидетельское показание, доказательство
examination – освидетельствование
pretrial hearing – предварительное слушание, совещание суда с адвокатами сторон
simplify - упрощать(ся), делать более простым, легким
dispose of the case – рассмотреть дело, разрешить спор

3.2. SCANNING

Part 2

1. **Steps in a Jury Trial.** The trial begins by selecting the jury and continues through opening statements, introduction of evidence, closing arguments, instructions to the jury, the jury's verdict, and the judgment.

2. **Selecting the Jury.** The judge calls the court to order and has a jury drawn from a pool of citizens who have been called to serve. The jury must determine the facts of the case and apply the law to those facts. The lawyers question each juror selected from the pool, trying to predict whether a juror will be fair or prejudiced. Attorneys consider the juror's background, education, experience, relationships, attitudes, and employment.

3. **Opening Statements.** After jurors are selected, attorneys for each side make opening statements, explaining what they intend to prove. The plaintiff's attorney goes first.

4. **Introduction of Evidence.** The plaintiff's attorney presents all of the plaintiff's evidence. Types of evidence include the following: documentary items, such as written contracts, sales slips, letters, or affidavits (sworn statements); physical objects, such as weapons, photographs, and items from the crime scene; and witness testimony. Witnesses respond to a subpoena, or order to appear, to testify. Some attorneys present expert witnesses who give authoritative opinions for the case.

5. The defense attorney has the chance to cross-examine the plaintiff's witnesses, asking questions to test the truth of statements and bring out evidence that was not developed on direct examination. When the plaintiff's attorney rests, the defendant's attorney presents evidence favorable to his or her client. Defense witnesses and any other evidence important to the defendant's case are put forward. The plaintiff's attorney may then cross-examine the defendant's witnesses. When the attorneys have introduced all of their evidence, they rest their cases.

6. **Closing Arguments.** The plaintiff's attorney is the first to present closing arguments, followed by the defense attorney. Each attorney summarizes the evidence and suggests reasons why the judge

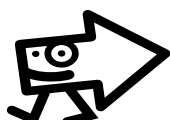
or jury should *find in favor of* his or her client.

7. **Instructions to the Jury.** The judge must explain the law to the jury in a process called jury instruction. Attorneys from both sides may suggest instructions.

8. **Verdict and Judgment.** Members of the jury go to the jury room to *deliberate upon their verdict*, or decision. In a civil case, the jury, influenced by the evidence that carries the most weight, finds “in favor of” one of the parties. There are variations from state to state as to the number of jurors who must agree to reach a verdict. In Massachusetts, for example, five-sixths of the jury members must agree on verdicts in a civil case.

Following the jury’s verdict, the court *issues a judgment* or the court’s *determination* in the case.

9. **Remedies.** When a defendant is found liable in a civil trial, the plaintiff *is entitled* to a remedy. American courts generally provide two categories of remedies: the payment of damages or an *equitable remedy* (which asks the court to do what is fair and just). The plaintiff may want the defendant to do what he or she promised in a contract, which is known as *specific performance*. Sometimes the plaintiff wants to prevent the defendant from doing something that he or she is planning to do or has already begun doing. In this case, the plaintiff seeks an *injunction*, an order to stop the defendant from performing an action.



LEXIS

opening statement - вступительная речь

introduction of evidence - представление доказательств

closing arguments – выступление адвокатов в завершении прений сторон

instructions to the jury - напутствие (судьи) присяжным

judgment - судебное решение; приговор

calls the court to order - объявлять заседание суда открытым

pool – совокупность, группа

be called to serve – получить право выступать в качестве присяжного

fair – беспристрастный

prejudiced - проникнутый предубежденностью

background – происхождение

attorney – адвокат

sales slip - кассовый чек, выписываемый продавцом

affidavit - письменное показание, подтвержденное присягой или торжественным заявлением

crime scene - место совершения преступления

witness testimony - свидетельское показание

subpoena - вызов в суд, повестка о явке в суд (под страхом наказания или штрафа в случае неявки)
 expert witness - свидетель-эксперт
 defense attorney - защитник; адвокат
 cross-examine - подвергать перекрёстному допросу
 bring out – выявлять, обнаружить
 direct examination - допрос свидетеля стороной, которая на него ссылается; первоначальный опрос или допрос свидетеля выставившей стороной
 rest – зд. заканчивать
 favorable – благоприятный
 put forward – предлагать
 find in favor of - выносить решение в пользу (кого-либо)
 deliberate upon a verdict – обсуждать вердикт
 issue a judgment – выносить решение
 determination - постановление суда, определение
 be entitled - получить право
 equitable remedy - средство судебной защиты по праву справедливости
 specific performance - реальное исполнение; исполнение договора в натуре
 injunction - судебный запрет



3.3. QUESTIONS

1. Are there any restrictions on a verdict delivered by jurors?
2. How does a civil trial begin?
3. In what forms may evidence be presented during the trial?
4. Specify the steps in a civil lawsuit.
5. What are some alternatives to litigation?
6. What is a difference between cross-examination and direct examination?
7. What is a difference between reactive and proactive methods of ADR?
8. What is the function of an evaluator in ENE?
9. What is within a capacity of a science court?
10. What methods of discovery are employed before trial in order to provide facts on the case?
11. What remedies do American courts generally provide in civil trials?
12. Who makes opening statements?
13. Why have people begun to explore alternatives to lawsuits?

3.4. AGREE OR DISAGREE

1. A summary jury trial usually runs less than a week.
2. As soon as the actual trial has taken place, a pretrial hearing usually occurs.
3. Civil trials begin with pleadings, the formal papers filed with the court by the judge or jurors.
4. The process, when the parties transfer the power to settle their dispute to a third party, is called mediation.
5. When a defendant is found liable in a civil trial, he or she is entitled to a remedy.

3.5. SUPPLEMENT FURTHER INFORMATION on the topic “Remedies in civil cases”.



3.6. SCANNING

Criminal Trial Procedure Part 1

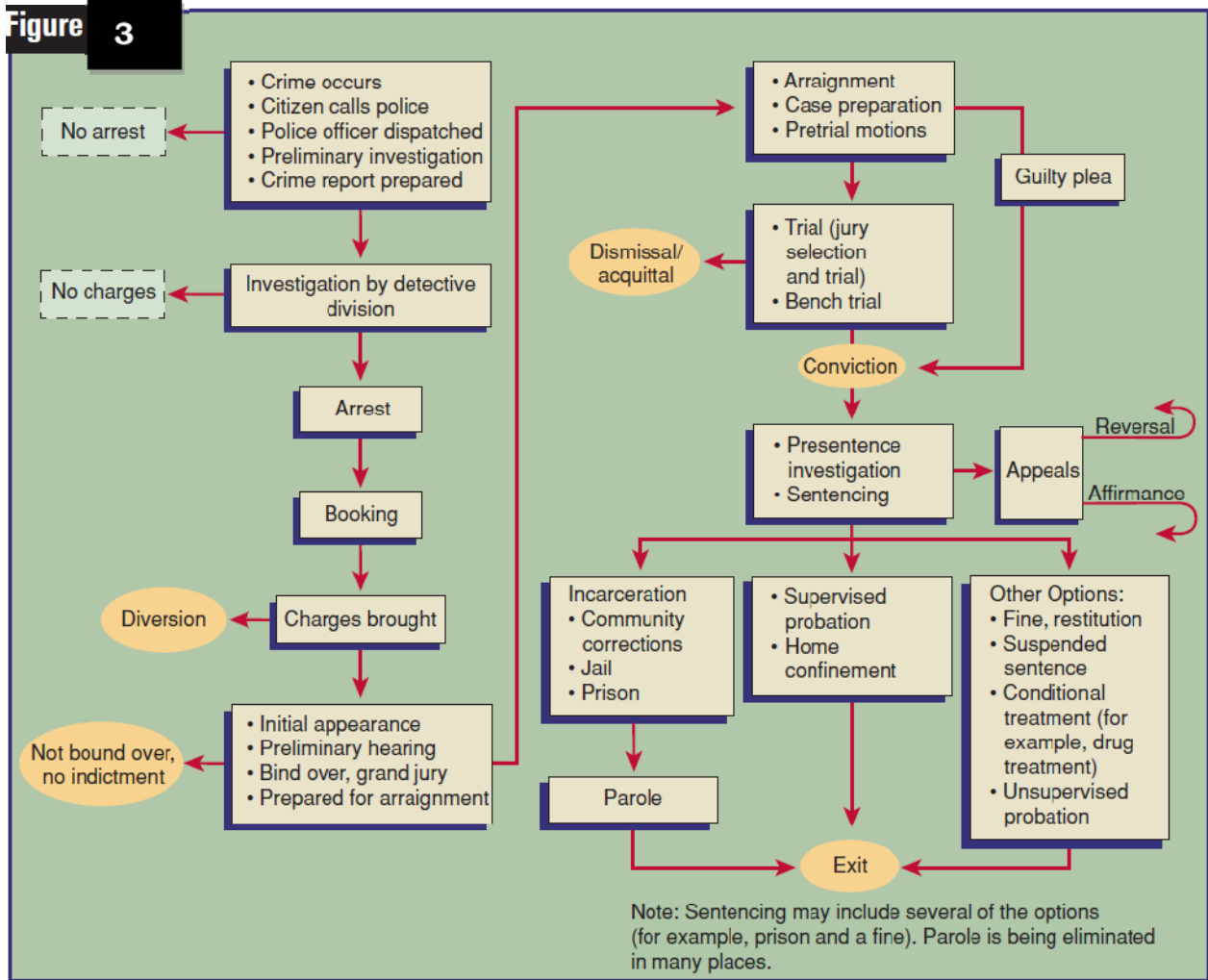
1. Criminal cases often start with the arrest of the defendant (see Figure 3). The law requires an immediate court hearing to protect the defendant’s rights. The trial is scheduled later to give the prosecuting attorney and the defendant’s attorney time to prepare their cases.

2. **Arrest of the Defendant.** An arrest occurs when a person is deprived of his or her freedom. A police officer may arrest a person at any time if the officer has a warrant. An officer may arrest a person without a warrant if he or she believes the person has committed or is committing a felony, or if the person has committed a misdemeanor involving a breach of the peace in the officer’s presence.

3. **Rights of the Defendant.** Arrested people must be informed of their constitutional rights as set forth in the case of *Miranda v. Arizona*. The Miranda warnings require that people be told what crimes they are being arrested for and the names of the police officers making the arrest. Arrested people also have the right to make a telephone call. A person who has been arrested can sometimes be released on bail. Bail is money or other property that is left with the court to assure that a person who has been arrested, but released, will return to trial.

4. People who are arrested have the right to remain silent. If they answer questions, they have the right to talk to an attorney first and may have an attorney present during the questioning. If a defendant cannot afford an attorney, the court must appoint one at no cost. Under the Constitution, accused individuals also have a right to a fair trial and are presumed innocent until proven guilty.

Figure 3



5. **Search and Seizure.** A police officer may search a person, car, house, or other building only if permission is given or if the officer has a *search warrant*. When police arrest someone in a house, building, or in a car, police may conduct a *limited search* without a warrant if there is good reason to believe the premises or the car contains something illegal.

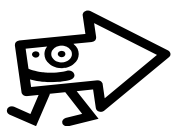
6. **The Arraignment.** The suspect *is brought before the court* as soon as possible after an arrest, informed of the nature of the complaint, and made aware of his or her rights. At this time, the judge may find cause to *dismiss the complaint* or decide if there is *probable cause* that a crime was committed.

7. Depending upon the jurisdiction, the prosecuting attorney either prepares *an information* or presents the case to the *grand jury*. A grand jury is a *jury of inquiry* made up of citizens who must decide whether there is enough evidence to *justify* accusing certain persons of certain crimes.

8. The grand jury hears evidence and testimony of witnesses. If jurors decide a crime has been committed, they issue an *indictment*, or written accusation charging the individual. This issuance does not

mean that the named person is guilty but that the grand jury believes there is a possibility he or she is guilty.

9. Following the indictment or information, the accused is brought to court for arraignment. The suspect is read the indictment or information and is asked to plead guilty or not guilty. The accused is informed of his or her rights. If the person pleads guilty, the judge may then impose the sentence. If the person pleads not guilty, the case proceeds to trial.



LEXIS

immediate court hearing – безотлагательное судебное слушание

be scheduled - быть запланированным, назначаться

be deprived of freedom – лишаться свободы

warrant - ордер (на арест, обыск и т. п.); предписание

felony - фелония (категория тяжких преступлений, по степени опасности находящаяся между государственной изменой и мисдиминором)

misdemeanor - мисдиминор (класс преступлений, серьезность которых ниже, чем у фелоний; за них, в свою очередь, предусматриваются менее тяжкие наказания)

make a telephone call - звонить по телефону

be released on bail – освобождаться под залог

assure - гарантировать, обеспечивать

remain silent - хранить молчание

afford - (быть в состоянии) позволить себе

at no cost – бесплатно

search – обыск | | обыскивать; производить обыск (личных вещей, в доме и т. п.)

seizure - конфискация, наложение ареста

search warrant - ордер на право обыска

limited search - ограниченный поиск

arraignment - предъявление обвинения, привлечение к суду

be brought before the court – привлекать к суду, приводить к судебному разбирательству

dismiss the complaint – прекратить дело, отклонить иск

probable cause - достаточное основание

an information - обвинение в совершении преступления, изложение фактических обстоятельств дела

grand jury - большое (следственное) жюри (коллегия из 12-23 присяжных, решающая вопрос о предании обвиняемого суду присяжных)

jury of inquiry - следственное жюри

justify - находить оправдание, объяснять

indictment - вердикт большого жюри о привлечении к уголовной ответственности и передаче дела в суд
guilty - виновный (of - в чем-л.)
plead guilty - признать себя виновным
impose - назначать (в законе, приговоре)

3.7. SCANNING

Part 2

1. **The Trial.** If the defendant requests a jury trial, selection of jurors proceeds and attorneys make opening statements and introduce evidence. Otherwise, the case is tried before the judge, who decides the verdict. The trial ends with the attorney's closing statements and the judge's instructions to the jury.

2. In a criminal case with a jury, the verdict is passed by a jury, which is called «a petit jury» because it has fewer members than a grand jury. Their verdict must be unanimous - either guilty beyond a reasonable doubt, or not guilty. A mistrial is called if the jury cannot agree, and a new trial may be held at the option of the prosecution. If the defendant is not guilty, he or she is released. If the defendant is found guilty, the judge imposes a sentence in the form of a fine, imprisonment, or both.

3. **Sentencing.** After a person has been convicted of a crime, he or she is sentenced by the court, which means the judge decides the punishment. The law provides certain sentencing guidelines and penalties, including fines, imprisonment, and even death.

4. **Fines.** A fine is the payment of money as a penalty for committing a crime, generally a minor one. Fines are also attached to more serious crimes and may be levied by the judge along with imprisonment.

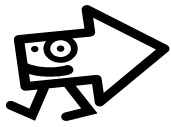
5. **Imprisonment.** States deal with imprisonment in different ways. In some states, the judge may hand down an indeterminate sentence, ordering a minimum and maximum amount of time the convicted criminal may spend in prison. A prisoner might be sentenced to five to ten years; however, good behavior might shorten his or her prison term.

6. Other states insist on compelling the judge to use a definite sentence. The judge must state the exact period of time a criminal will spend in prison. Some states have created mandatory sentences for certain crimes, which cannot be altered for any reason.

7. **The Death Penalty.** The US Constitution says death penalty laws must include guidelines to ensure fair treatment. Death penalty laws require three phases:

(i) the jury determines whether the defendant is guilty;

- (ii) the judge or jury listens to attorneys' arguments and determines the punishment under state laws that clearly set forth factors to be considered in a presentencing hearing;
- (iii) an appeal is taken to the state's highest court.



LEXIS

proceed – приступать, осуществлять (процессуальные действия)

petit jury - малое жюри присяжных (из 12 человек)

unanimous - единогласный, единодушный

mistrial - судебное разбирательство, противоречащее нормам правосудия

fine - взыскание, штраф, пеня

imprisonment - заключение (в тюрьму); лишение свободы

sentencing - вынесение приговора; назначение наказания

convict of a crime - осудить за совершение преступления

punishment - наказание, взыскание

guidelines - руководящие принципы

penalty - наказание; карательная мера; санкция

levy - взимать (штраф, налог) ; налагать (штрафную санкцию)

hand down – выносить

indeterminate sentence - приговор к лишению свободы на срок, зависящий от поведения заключённого; осуждение на неопределённый срок

prisoner – подсудимый, заключённый

prison term - срок тюремного заключения

compel - вынуждать, принуждать

mandatory sentence - обязательное по закону наказание

alter - изменять; видоизменять, вносить изменения

death penalty - смертная казнь

fair treatment - справедливое рассмотрение дела



3.8. QUESTIONS

1. How are jurors selected?
2. How do criminal cases usually start?
3. Specify the steps in a criminal lawsuit.
4. What does the term an “indeterminate sentence” mean?
5. What is a grand jury? How it differs from a petit jury?
6. What is a role of a pretrial hearing in civil litigation?
7. What is the difference between a civil case and a criminal case?
8. What punishment may be imposed by a judge?
9. What rights do people have when they are arrested?

3.9. AGREE OR DISAGREE

1. A person who has been arrested is sooner or later released on bail.
2. A police officer may arrest a person at any time even if the officer has no warrant.
3. Both civil and criminal trials begin in much the same way.
4. Following the arraignment, the accused is brought to court for indictment.
5. The US Constitution says that death penalty should be excluded in order to ensure fair treatment of felons.

3.10. SUPPLEMENT FURTHER INFORMATION on the topics “*Corpus delicti* of a crime” and “Classifications of criminal offences”.

3.11. KEY WORDS

| | |
|--------------------------------|-----------------------|
| adversarial system | opening statements |
| allegations | parties to a dispute |
| alternative dispute resolution | plaintiff |
| arbitration | plaintiff's attorney |
| arraignment | pleadings |
| bail | pretrial hearing |
| civil trial | prosecuting attorney |
| complaint | remedy |
| criminal trial | specific performance |
| damages | subpoena |
| defendant | to bring a case |
| evidence | to convict of a crime |
| felony | to file a complaint |
| fine | to hold a trial |
| imprisonment | to pass a sentence |
| indictment | to plead (not) guilty |
| injunction | to render a verdict |
| judge | to search |
| judgment | to testify |
| jury trial | warrant |
| misdemeanor | witness |



3.12. MAKE A REPORT on the topic “Judicial proceedings”, paying attention to the following points in your speech:

- civil trial procedure;
- steps in a jury trial;
- remedies in civil cases;
- alternative dispute resolution;
- criminal trial procedure;
- sentencing.

Unit 4. International Law



4.1. SCANNING



International Law

1. By definition, International Law is the common concern of nations, a blend of legal systems, cultures, ideas and experiences. To qualify as a subject under the traditional definition of International law, a state has to be sovereign: it needs a territory, a population, a government, and the ability to engage in diplomatic or foreign relations.

2. A more contemporary definition expands the traditional notions of International law to confer rights and obligations on intergovernmental international organizations and even on individuals. The United Nations, for example, is an international organization that has the capacity to engage in treaty relations governed by International law with states and other international organizations. Individual responsibility under International law is particularly significant in the context of prosecuting war criminals and the development of international human rights.

3. In general International Law regulates three main categories of questions which include the following:

(i) Questions which cannot be resolved by one state or by the unilateral actions of one state. These questions include common human interests and values which need to be agreed upon in the framework of the international community, i.e. the very existence of states, diplomatic relations, international security, disarmament, global ecological processes, open seas, space exploration.

(ii) Questions which are not connected with common human interests but resolved only by mutual efforts by two or more states. All these questions include the establishment of common borders, offering legal aid, dual citizenship, entrance upon a foreign territory with or without a visa.

(iii) Questions which can be regulated within each state but which are better regulated by mutual intergovernmental acts in order to make them more effective; they include the provision and protection of human rights and interests, provision of criminal jurisdiction of transnational nature: international terrorism, money laundering, drug trafficking, etc.

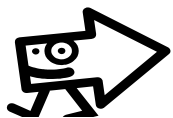
4. **Sources of International Law.** Article 38(1) of the International Court of Justice Statute enumerates the sources of International law and provides that International law has its basis in international custom, international conventions or treaties, and general principles of law:

(i) Customary International law is defined as a general practice of law. States follow such a practice out of a sense of legal obligation. In order to be recognized as customary law the practice must be reasonable in nature and it must have been followed continuously since the beginning of legal memory.

(ii) Conventional International law includes international agreements and legislative treaties that establish rules expressly recognized by consenting states. Only states that are parties to a treaty are bound by it. However, a very large number of states voluntarily adhere to treaties and accept their provisions as law, even without becoming parties to them. The most important treaties in this regard are the Genocide Convention, the Vienna conventions, and the provisions of the UN Charter.

(iii) Paramount principles of International law (or jus cogens) are associated with the Charter of the United Nations Organization. According to the UN Charter, article 2(3), all nations are required to settle their disputes by peaceful means in such a manner that international peace, security, and justice are not endangered. Nations are advised to resort to peaceful dispute-settlement mechanisms such as negotiation, mediation, and conciliation.

5. The UN Charter includes a general provision that concerns the human rights of the individual. On December 10, 1948, the United Nations adopted the Universal Declaration of Human Rights, which defines and enumerates specifically the human rights that the United Nations seeks to protect. Among those are freedom from systematic governmental acts and policies involving torture, slavery, murder, prolonged arbitrary detention, and racial discrimination. The declaration guarantees the right to life; to equal protection of the law; to free speech, movement; to privacy; to work; to education; to health care; and to participation in the cultural life of the community.



LEXIS

common concern – общая забота, общая для всех проблема

experiences – знания, опыт применения

engage in – заниматься, участвовать

foreign relations - международные отношения

contemporary – современный

expand - расширять(ся); увеличивать(ся)

confer - давать; предоставлять; даровать; возлагать

intergovernmental – межгосударственный, межправительственный

treaty relations - договорные отношения

war criminals - военные преступники

human rights - права человека

unilateral - односторонний
the very existence – само существование
international security - международная безопасность
disarmament - демилитаризация, разоружение
open seas - открытое море, нейтральные воды
space exploration - космические исследования; космонавтика
common borders - общие границы
legal aid - правовая помощь, юридическая помощь
dual citizenship - двойное гражданство
transnational - транснациональный
money laundering – отмывание денег
drug trafficking - контрабанда наркотиков, незаконный оборот наркотиков
International Court of Justice Statute - устав международного суда организации объединённых наций
custom - обычай, традиция
treaty - договор (международный)
out of - из-за
reasonable - разумный, рациональный; здравый
conventional - обусловленный в соглашении; основанный на договоре; конвенционный
consenting – договаривающийся, пришедший к согласию
voluntarily adhere - добровольно присоединяться
provisions – условия, положения (договора)
jus cogens - общее международное право
endanger - ставить в опасность, подвергать опасности; создавать угрозу безопасности
negotiation - переговоры; ведение переговоров
conciliation - примирение; примирительная, согласительная процедура
torture – пытка
slavery – рабство
prolonged arbitrary detention – длительное дискриминационное содержание под арестом
racial discrimination - расовая дискриминация
movement - передвижение, перемещение
privacy - неприкосновенность частной жизни



4.2. QUESTIONS

1. What does Conventional International law include?
2. What does the Universal Declaration of Human Rights proclaim?
3. What entities may be regarded as subjects of International law?
4. What must the practice be in order to be recognized as customary

law?

5. What principles of International community are treated as *jus cogens*?
6. What requirements should a state satisfy in order to be recognized?
7. What three broad categories of questions are regulated by International Law?
8. Where are the sources of International law enumerated?

4.3. AGREE OR DISAGREE

1. *Jus cogens* is primarily associated with the decisions of the International Court of Justice.
2. The Genocide Convention and the Vienna conventions are the examples of Customary International law.
3. The United Nations irrespective of its importance on the international scene can't be treated as a subject of International law.
4. There are three main sources of International law: international custom, statutory law and *jus cogens*.
5. Under International law there is no such concept as "individual responsibility", instead there is only "state responsibility".



4.4. SCANNING

European Community

1. The European Union (EU) is a supranational and intergovernmental union of 27 states with its total population about 500 million people. There are 23 official and working languages within the Union. Citizens of EU member states are also EU citizens: they directly elect the European Parliament, once every five years. They can live, travel, work, and invest in other member states (with some restrictions on new member states). Passport control and customs checks at most internal borders were abolished by the Schengen Agreement.

3. The European Union is governed by a number of institutions, these primarily being the European Commission, the Council of the European Union, the European Court of Justice, and the European Parliament.

4. The European Commission acts as an executive or Civil Service. It is currently composed of one member from each state and is responsible for drafting all proposed law, a duty on which it maintains a monopoly in order to co-ordinate European Law. It also controls some agencies and the day-to-day running of the Union. Its president is nominated by the European Council then elected by the Parliament.

5. The Council of the European Union (also known as the Council of Ministers) forms one half of the Union's legislative branch (the other being the Parliament). It is composed of the respective national ministers. The body's presidency rotates between the member-states every 6 months, though the current president member-state cooperates with the previous and future president member-state, to provide continuity.

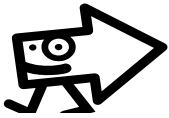
6. The European Parliament is the only Union body composed of officials directly elected on European issues. Every 5 years citizens in all member-states vote for 751 "MEPs" who form the second half of the Union's legislative branch. Seats are distributed among the European Union member states based on their respective populations. Its members sit according to political groups rather than nationality and its president is elected by its members.

7. The judicial branch of the Union consists primarily of the European Court of Justice composed of one judge nominated by each member-state with the president elected from among those nominees. Below the Court of Justice there is a lower court called the Court of First Instance created to lift some of the work load of the Court of Justice. There is also the European Court of Auditors which monitors the Union's accounts.

8. There is no official European capital, with institutions spread across a number of cities. However, Brussels is often considered the *de facto* capital as it hosts most of the primary institutions, including the Commission and the Council. The Parliament also has its second seat in the city. Strasbourg is the official seat of the European Parliament, meeting there for twelve week-long plenary sessions each year. Luxembourg City plays host to the Secretariat of the European Parliament as well as the European Court of Justice, the Court of First Instance and the European Court of Auditors.

9. EU law covers only member states themselves. Where a conflict arises between EU law and the law of a member state, EU law takes precedence, so that the law of a member state must lose effect. Both the provisions of the Treaties, and EU regulations are said to have "direct effect" horizontally.

10. The other main legal instrument of the EU, "directives", have direct effect, but only "vertically". Private citizens may not sue one another on the basis of EU directives, since these are meant to be addressed to the member state. Directives allow some choice for member states in the way they translate a directive into national law. Once this has happened citizens may rely on the law that has been implemented. They may only sue the government "vertically" for failing to implement a directive correctly.



LEXIS

supranational - наднациональный
customs check - таможенный досмотр
internal borders - внутренние границы

Schengen Agreement - Шенгенский договор, 1985 (Соглашение “О постепенной отмене проверок на общих границах”; подписано в городке Шенген (Люксембург))

European Court of Justice (ECJ) - Европейский суд

Civil Service - аппарат международных организаций

presidency - 1) президентство, обязанности президента; 2) председательство; обязанности председателя

rotate - чередовать(ся); сменять(ся) по очереди

provide continuity - обеспечивать преемственность

nominee - 1) кандидат, предложенный на какую-л. должность; 2) номинант, претендент, соискатель

accounts 1) бюджет; 2) счета; расходы

host - принимать гостей, выступать в роли принимающей стороны

plenary session - пленум; пленарное заседание

take precedence - иметь преимущественное значение, превосходить по важности

lose effect - утратить юридическую силу

sue - преследовать судом; подавать в суд, возбуждать иск

directive - директива, предписание, руководящие разъяснения



4.5. QUESTIONS

1. How many states are the members of the EU?
2. What bodies form the legislative branch of the EU?
3. What important EU institutions and bodies do you know?
4. What is meant by “a directive” in the text?
5. What is the capital of the EU?
6. What was abolished by the Schengen Agreement.
7. Which is the only EU body, members of which are elected?

4.6. AGREE OR DISAGREE

1. Citizens of only five states can elect the European Parliament.
2. EU law covers all member states of the international community.
3. Private citizens may sue one another on the basis of an EU directive.
4. Strasbourg is the official seat of the European Parliament.
5. The court of First Instance is the main court in the EU.
6. The European Court of Justice is composed of a single judge.
7. The President of the Council of the European Union is elected every 4 years.

4.7. SUPPLEMENT FURTHER INFORMATION on the topic “Public International law”.



4.8. SCANNING

Private International Law

1. When parties from different countries are involved in a dispute there may exist some reasons for applying the law of one state, other and different reasons for applying the law of the other state. These problems are addressed by the three branches of private international law (or conflict of laws): adjudicatory jurisdiction, choice of law, and recognition and enforcement of foreign judgments.

2. **Jurisdiction.** The jurisdictional aspect of litigation concerns the question of where – that is, in the courts of which country – proceedings should be brought. The claimant might have a preference for commencing proceedings in the courts of his own country, not least because he will be able to appoint local lawyers having in-depth experience of the system governing the litigation process. However, other factors should also be considered, including:

- the whereabouts of the defendant;
- the location of the defendant’s assets;
- the location of the evidence in the form of witnesses and documents, etc.;
- overall costs;
- difficulties associated with enforcing any judgement awarded.

If, having considered all of the above factors, the claimant decides to bring the case before the courts of a particular country, the jurisdictional requirements of the particular court will have to be satisfied.

3. **Choice of law.** Choice-of-law theories have traditionally focused on a single element of a matter under consideration in order to relate or “connect” the case to a single legal community. Thus, issues characterized as contractual might be referred to the place of contracting. Issues sounding in tort can be associated to either the place of the wrongful conduct or of the injury. Descent and distribution problems could be assigned to the decedent’s domicile at death.

4. The US legislation adopts the “most significant relationship” test for choice of law applicable to a particular issue in international matters. These include the following:

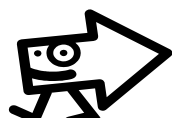
- (a) the needs of the international systems
- (b) the relevant policies of the forum
- (c) the protection of justified expectations
- (d) the certainty, predictability, and uniformity of result
- (e) the ease in the determination and application of the law to be applied.

5. **Recognition and enforcement of judgments.** Even if a claimant succeeds in his action against the foreign-based defendant, the question of enforcing the court's judgement remains. The "recognition" of a foreign judgment occurs when the court of one state accepts a judicial decision made by the courts of another state as in rem and so precludes the relitigation of a claim on the same facts on the ground of res judicata. Once the judgment is recognised, the party who was successful in the original case can then seek its "enforcement".

6. In general, issues relevant to the enforcement of foreign judgments are frequently regulated by bilateral treaty or multilateral international convention to facilitate the reciprocal recognition and enforcement of judgments between states.

7. **Exceptions.** Grounds for non-recognition can be predicated upon:

- lack of conclusiveness: if the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
- the foreign court did not have personal jurisdiction over the defendant.
- the foreign court did not have jurisdiction over the subject matter;
- the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;
- the judgment was obtained by fraud;
- the judgment conflicts with another final and conclusive judgment.



LEXIS

apply the law - применять закон

conflict of laws - коллизионное право; частное международное право

adjudicatory jurisdiction – сфера полномочию по разрешению правовых споров

choice of law - выбор правовой нормы

recognition - официальное признание

foreign judgment - решение, вынесенное иностранным судом

litigation - тяжба; судебный процесс

proceedings - рассмотрение дела в суде, судебное разбирательство, судебная процедура, производство по делу, судопроизводство, процесс

claimant - истец; сторона, заявляющая требование

commencing – начало

not least - не в самую последнюю очередь
in-depth experience – глубокие знания, всесторонний опыт
whereabouts – местонахождение
assets – имущество, активы
overall costs - общие расходы
jurisdictional requirements - необходимые условия, относящиеся к юрисдикции
matter under consideration - факт или дело на рассмотрении, рассматриваемый вопрос
sounding in tort - основанный на деликте
wrongful conduct - неправомерный поступок
descent - наследственное преемство
distribution - распределение имущества среди наследников по закону
be assigned – соотноситься, быть отнесённым
decedent's domicile at death - место постоянного жительства скончавшийся на момент его смерти
forum - место подсудности
justified expectations - правомерные ожидания
ease - легкость, простота
succeed in action – выиграть по иску
foreign-based – иноземный, зарубежный
in rem – *лат.* в отношении самой вещи, в отношении сущности дела
preclude the relitigation - исключать повторный процесс
seek – требовать
bilateral - двусторонний, заключенный двумя сторонами (договор, соглашение и т.п.)
multilateral – многосторонний
reciprocal - взаимно обязывающий; взаимовыгодный
predicate upon - основывать на фактах
lack of conclusiveness – неубедительность, отсутствие безусловной доказательственной базы
be rendered – выдаваться, выноситься (о решении)
impartial - беспристрастный, справедливый, непредубежденный; непредвзятый, объективный
compatible with – соответствующий
due process of law - надлежащая правовая процедура, процессуальные гарантии
personal jurisdiction - юрисдикция в отношении лиц, личная подсудность
subject matter - существо судебного дела, предмет рассмотрения
notice – извещение
sufficient time - достаточное время

final and conclusive judgment - окончательное и обоснованное решение суда



4.9. QUESTIONS

1. What does the "most significant relationship" test include?
2. What factors should be considered at determining the jurisdictional aspect of litigation?
3. What grounds may warrant non-recognition of a foreign judgment?
4. What is a difference between recognition and enforcement of a foreign judgment?
5. What three broad spheres of conflict of laws are described in the text above?

4.10. AGREE OR DISAGREE

1. According to the doctrine of private international law judgments should be recognized automatically.
2. The fact, that a foreign court had personal jurisdiction over the defendant or over the subject matter at issue, may be used as a reasonable ground for non-recognition of that court's judgments.
3. The jurisdictional aspect of litigation concerns the problem of applicable law.
4. The jurisdictional theory has traditionally focused on a single element - proximate "connection" of the case under consideration to a particular legal community.
5. The recognition of a foreign judgment as a rule precludes its enforcement.

4.11. SUPPLEMENT FURTHER INFORMATION on the topic "Private International Law".

4.12. KEY WORDS

adjudicatory jurisdiction

bilateral

choice of law

conflict of laws

Conventional International law

Council of the European Union

Customary International law

direct effect

enforcement of foreign judgments

European Commission

European Court of Justice

European Parliament

international organization

jus cogens

member states

multilateral

peaceful

personal jurisdiction

Private International law

Public International law

recognition of foreign judgments

to co-operate

to engage in

to guarantee

foreign relations
human rights
in rem jurisdiction
international community

to protect
to settle a dispute
treaty
unilateral



4.13. MAKE A REPORT on the topic “International law”, paying attention to the following points in your speech:

- the nature of International law;
- the sources of Public International law;
- international organizations as subjects of International law;
- main issues of Private International law: adjudicatory jurisdiction, choice of law, and recognition and enforcement of foreign judgments

Unit 5. Legal Profession



5.1. SCANNING



US Attorneys

1. An attorney is a person learned in the law who gives legal advice and is licensed to represent a person, or client, who hires the legal adviser. As a rule an attorney is a graduate of an accredited four-year college and spends three years at an accredited law school to receive the degree of Juris Doctor. The graduate must pass an examination given under the auspices of a state's bar association. An attorney may perform legal duties related to both criminal and civil matters by offering counsel concerning the law, by drafting legal documents, and representing the client in court.

2. The breadth of attorneys' authority in the United States contrasts with the organization of legal professions in some other countries. In Great Britain, for example, there is a traditional division within the legal profession between solicitors, who advise clients and prepare legal documents, and barristers, who present cases in court. Despite their authority to handle any area of law, U.S. lawyers usually specialize in specific tasks or legal subjects. Their specializations usually result from the needs of their employers or from the demands of their clients.

3. An attorney may be in private practice, work for a private corporation, or work for the government. An attorney engaged in private practice, whether a sole practitioner, a member of a partnership, or a member of a large law firm, may handle diverse duties such as estate planning, business law, and civil or criminal litigation.

4. Attorneys working for private corporations may represent the corporation in labor or contract negotiations and may handle routine litigation filed against the corporation. Major litigation, or any lawsuit that may take a long time to resolve, is often turned over to a private law firm hired for the purpose. Corporate attorneys may also provide low-cost or no-cost legal advice to employees of the corporation.

5. Attorneys employed by government agencies become specialists in the areas of law handled by their agencies. For example, attorneys may specialize in matters affecting health care, education, transportation, housing, agriculture, and the other areas overseen by government agencies.

6. The enforcement of criminal laws is primarily handled by local prosecutors who typically work for county or city government. Attorneys who work for state attorneys general, the chief legal officials in each state, may have the authority to prosecute violations of certain state laws or to file civil lawsuits against corporations and individuals involved in illegal business practices.

7. In the judicial branch of government, attorneys serve in various roles. Judges who preside over courtrooms and decide issues during trials are attorneys. The president of the United States chooses attorneys for the federal courts to serve as judges. In most states, voters play a role in either electing attorneys to become judges or in deciding whether judges have performed well enough to continue in office. Inexperienced attorneys called "law clerks" work for a year or two as assistants to federal judges, state appeals court judges, and some state trial judges.

Types of Attorneys

Bankruptcy attorney: represents people seeking to have their debts discharged by the court

Corporate attorney: employed by a law firm or corporation to draft contracts, arrange business deals, and handle other aspects of corporate law

Criminal defense attorney: represents people accused of crimes

Estate planning attorney: assists clients in addressing laws affecting inheritance by handling wills, trusts, and estates

Family law attorney: specializes in divorce, adoption, and child custody cases

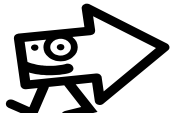
Government attorney: employed by a government agency to represent the government and enforce governmental laws and regulations

Labor attorney: specializes in employment issues, including contract negotiations between labor unions and employers

Personal injury attorney: specializes in pursuing lawsuits against people allegedly responsible for a client's injuries

Prosecutor: investigates and pursues charges against people suspected of committing crimes

Tax attorney: advises clients on arranging business and personal affairs to minimize the imposition of taxes



LEXIS

attorney – юрист (в США)

learned in the law - сведущий в вопросах права

be licensed - иметь разрешение, получить лицензию

hire - нанимать, приглашать на работу

graduate - окончивший высшее учебное заведение, дипломированный специалист

law school - юридический факультет университета

Juris Doctor – доктор права (первая степень выпускника юридического факультета, далее идут Master of laws (LLM) – магистр права, Doctor of Juridical Science - доктор юридических наук)

pass an examination - выдержать экзамен

under the auspices of – под покровительством, при содействии

bar association - ассоциация адвокатов, коллегия адвокатов

offer counsel – давать советы, оказывать консультационную помощь

draft legal documents – составлять юридические документы

breadth – объем, степень, широта

contrast - контрастировать, расходиться

solicitor - солиситор, адвокат (дающий советы клиенту, подготавливающий дела для барристера и выступающий только в судах низшей инстанции)

barrister - барристер; адвокат, имеющий право выступать в высших судах (отличается от обычного адвоката тем, что не ведет дело с самого начала, а получает все материалы незадолго до суда)

handle – разбирать, иметь дело, заниматься, рассматривать

employer - работодатель

private practice - частная адвокатская практика

sole practitioner – отдельно практикующий юрист

estate planning - использование недвижимого имущества

business law - торговое право, предпринимательское право

routine litigation - текущие судебные дела

major litigation – серьезное, более важное судебное разбирательство

turn over - передавать (другому)

low-cost – недорогой

no-cost – бесплатный

state attorney general - главный прокурор штата, высший чиновник органов юстиции штата
in office - в должности
inexperienced - не имеющий опыта
law clerk - судебный делопроизводитель, сотрудник канцелярии суда
discharge – освобождать от обязанностей, восстанавливать в правах (несостоятельного должника)
arrange business deals– улаживать коммерческие сделки, приводить к соответствию финансово-хозяйственные операции
inheritance - наследуемая недвижимость, наследство
adoption - усыновление, удочерение
child custody – забота о ребенке, попечение
investigate and pursue charges - расследовать и осуществлять уголовное преследование
imposition of taxes – налогообложение, взимание налогов



5.2. QUESTIONS

1. How are federal and state judges chosen in the USA?
2. How does the organization of legal professions in the United States differ from that of Great Britain?
3. What are the major duties of attorneys employed by government agencies?
4. What areas do attorneys specialize in?
5. What duties may a sole practitioner handle?
6. What services do corporate attorneys provide?

5.3. AGREE OR DISAGREE

1. An attorney in the USA may perform legal duties related only to civil matters.
2. Estate planning attorneys as a rule specialize in divorce and child custody cases.
3. In the USA there is a traditional division within the legal profession between attorneys, law clerks and barristers.
4. Specialization of U.S. lawyers is wholly determined by the demands of their clients.
5. The enforcement of criminal laws is primarily handled by attorneys working for private corporations.

5.4. SUPPLEMENT FURTHER INFORMATION on the topic “Lawyers in England”.



5.5. SCANNING

Lawyers and Professional Ethics

Part 1

Ethical Character Traits

1. In trying to determine what makes a person ethical, it helps to think of some ethical people. Many of the same names come up as answers: Albert Schweitzer, Mother Theresa, Andrey Sakharov, Mohandas Gandhi, and Martin Luther King, Jr. What character traits do those people have that make them ethical?

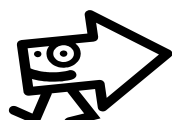
2. **Honesty**. A character trait of a person who is open and truthful in dealings with others is called honesty. We admire honesty because it is not easy to be honest in every situation. Most of us want to have honest friends and would like to be described by others as honest. An honest person is someone who tells the truth and can be trusted to keep his or her promises.

3. **Justice**. Another character trait ethical people share is justice. A person is said to be just if he or she treats people fairly and equally. Being just also means that a person is capable of treating everyone fairly, not just relatives and friends. Because most of us want to be treated with justice, it makes sense to treat others with justice as well. A just person will see that everyone gets his or her fair share of those things that are available to a group.

4. **Compassion**. Another trait attributed to ethical people is compassion. A person shows compassion when he or she is sympathetic to the difficulties of others and wants to help alleviate their problems. Compassion also involves a respect for other people and their right to make their own decisions. Compassionate people try to understand other people's shortcomings and forgive their mistakes.

5. **Integrity**. A person of integrity is willing to do the right thing, regardless of personal consequences. People with integrity stand up for their convictions, even if the majority is against them. They are willing to risk many things for the sake of their moral convictions.

LEXIS



come up – возникать, соответствовать

character traits – черты характера

honesty – честность, правдивость, искренность

truthful in dealings - верный, правдивый в отношениях

be trusted – заслуживать доверия

justice – справедливость

just – справедливый, беспристрастный, непредубежденный, объективный

treat - обращаться, обходиться, вести себя по отношению к кому-л.
как-л.; относиться
make sense - иметь смысл
fair share - справедливая доля
available - доступный; имеющийся в распоряжении, наличный
compassion - жалость, сострадание; сожаление, сочувствие, участие
alleviate - облегчать (боль, страдания); смягчать
shortcomings – недостатки
forgive – прощать, извинять, не требовать
integrity - прямота, целостность; добропорядочность
consequences – последствия
stand up for – отстаивать
convictions – убеждения
for the sake of - во имя, ради

5.6. SCANNING

Part 2

Professional Responsibility

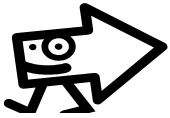
1. In America the legal profession is regulated primarily by state law, although the federal courts exercise authority over lawyers appearing in litigation before them. The governing regulations include codes of professional ethics; duties and responsibilities imposed by the law of procedure; and common law rules. This body of law is usually called the law of professional responsibility.

2. Each state has a code of professional ethics that defines the lawyer's responsibilities in representing clients. These provisions cover most aspects of a lawyer's professional responsibilities, including the duties of loyalty to clients and avoidance of conflicts of interest; the duty to maintain the secrecy of confidential information obtained from clients; duties toward opposing parties in litigation and negotiations; responsibilities of supervising lawyers and partners in law firms concerning ethical practice by subordinate lawyers; and duties of advocates to the courts.

3. Much of the communication between attorney and client is subject to privilege (confidential) and may not be divulged to a third party unless the client agrees to it. For the attorney to do otherwise would be considered a serious breach of professional conduct. Attorney-client privilege is so important that an attorney must receive permission from the court to withdraw from representation of a client once proceedings are begun.

4. The conduct of the advocates in the adversary system is also governed by the rules of court procedure. Among these controls is the

procedural rule that any communication by an advocate to the court must be disclosed to all opposing parties. For example, when a written pretrial motion is filed with the court, the procedural rules require that a full copy must be provided to opposing parties. The same principle applies to oral presentations to the court.



LEXIS

code of professional ethics - кодекс профессиональной этики

law of procedure - процессуальное право

duty of loyalty - обязанность соблюдать закон

avoidance of conflict of interest – предотвращение «конфликта интересов» (несовместимость должностного положения с частными интересами должностного лица; использование должностного положения в личных интересах)

obtained - полученный

opposing party - возражающая сторона; возражающее лицо

supervising – руководящий, вышестоящий

subordinate – подчиненный, нижестоящий

is subject to - находиться под действием, подчиняться

divulge - разглашать, раскрывать, обнародовать (to)

third party - третья сторона (свидетели, очевидцы, эксперты и т. д., привлекаемые к сотрудничеству в решении спора), третье лицо

attorney-client privilege - право адвоката не разглашать информацию, полученную от клиента

withdraw from representation - отказаться от представления (чьих-либо интересов)

communication - обмен информацией

be disclosed – раскрываться, сообщаться

pretrial - досудебный

motion - ходатайство (в суде)

5.7. QUESTIONS



1. Give your own examples of ethical people and give reasons for your choice.
2. How do the rules of court procedure restrict the activity of advocates?
3. How can you describe “integrity” as a character trait of a person?
4. How is the legal profession regulated in America?
5. What is a difference between honesty and justice as ethical character traits?
6. What is a lawyer/client privilege? May any party waive this privilege?

7. What is the purpose of creating a code of professional ethics in each American state?

5.8. AGREE OR DISAGREE

1. A lawyer should always disclose adverse evidence.
2. A person shows compassion when he or she is unprejudiced to the advancement and prosperity of others.
3. Everyone who is willing to risk may be called a person of integrity.
4. Lawyers in America are regulated primarily by the federal courts.
5. People admire honesty because it is natural to be honest in every situation.
6. The law of professional responsibility includes court procedure norms, the guidelines of professional ethics, and common law rules.
7. The pretrial communications by an advocate to the court need not be disclosed to the opposing party.

5.9. SUPPLEMENT FURTHER INFORMATION on the topic “Professional ethics”.



5.10. SCANNING

Legal Education Part 1

Studying Law in the UK

1. In the UK, a legal education usually begins with the completion of a bachelor degree in law, known as an LLB, which usually takes three years. However, many students graduate in a non-law subject and then undertake a one year conversion course known as a postgraduate Diploma in Law or GDL.

2. A person wishing to become a solicitor must complete three stages: the first stage involves gaining a law degree; the second stage requires passing a one-year full-time (or two years part-time) Legal Practice Course (LPC); and the final stage entails working for two years as a trainee solicitor with a firm of solicitors or in the legal department of a local authority or large company. At this stage, a trainee solicitor is paid a salary.

3. Intending barristers also need a qualifying law degree in order to apply to join one of the Inns of Court to study for the Bar Professional Training Course. It's also mandatory for students to keep terms, which means dining at their Inn a fixed number of times, before they can be called to the Bar, that is, qualify as a barrister.

6. Then the new barrister faces intense competition to obtain a funded pupillage in chambers for twelve months in order to get practical training, when pupils at first shadow an experienced barrister by observing professional activities, and then, with their supervisor's permission, can undertake to supply legal services and exercise rights of audience.

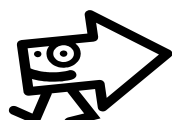
7. To gain a Full Qualification Certificate pupils must learn the rules of conduct and etiquette at the Bar, learn to prepare and present a case competently, learn to draft pleadings and opinions, have advocacy training. If successful at the end of the twelve months, the qualified barrister applies for a tenancy in chambers.

8. The profession of barrister in England and Wales is a separate profession from that of solicitor. It is however possible to hold the qualification of both barrister and solicitor at the same time.

9. The practical difference between the two professions is twofold:

- o Barristers have a more specialised knowledge of case-law and precedent. It is relatively common for a barrister to only receive a "brief" from an instructing solicitor to represent a client at trial a day or two before the hearing.

- o A barrister has rights of audience in the higher courts. In this regard, the profession of barrister corresponds to that part of the role of legal professionals found in the civil law countries relating to appearing in trials or pleading cases before the courts.



LEXIS

bachelor degree – степень бакалавра

conversion course – курс переподготовки, переходной курс обучения

postgraduate - изучаемый после окончания университета

gaining - получение, приобретение

full-time – очное обучение

part-time - заочное обучение

trainee solicitor - солиситор-стажёр, практикант

skills - навыки; умение; практический опыт

welfare law - законодательство о социальном обеспечении

intending – желающий стать, намеревающийся

Inns of Court - "Судебные Инны" (четыре английские школы подготовки барристеров)

Mandatory - обязательный

keep terms - посещать занятия

dining – система учебных занятий в неформальной обстановке, так называемые "занятия в столовой"

be called to the Bar - быть принятым в адвокатское сословие

funded pupillage – оплаченный курс ученичества

shadow – непрерывно следовать за, непрерывно наблюдать

right of audience - право выступать в суде

tenancy - членство

brief – краткое письменное изложение дела с привлечением фактов и документов, с которыми сторона выступает в суде

correspond - соответствовать; согласовываться, соотноситься

plead a case - представлять (чьи-либо) интересы по делу

5.11. SCANNING

Part 2

Training and Licensing of Attorneys in the USA

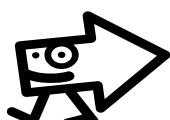
1. In the United States attorneys must generally have a four-year college degree and a degree from a law school accredited by the American Bar Association (ABA) or approved by a state supreme court. Graduation from law school requires in addition three years of fulltime study or four years of part-time study. During law school all students take a variety of required courses covering a broad range of legal subjects.

2. In addition, depending on a particular law school's requirements, 30 to 60 percent of a student's courses may be electives. Many students use their elective choices to begin preparing for a career specializing in a particular field of law.

3. States require that law school graduates pass a bar examination and undergo a background check before becoming licensed attorneys. Each state has its own bar examination. Many states give a standard six-hour multiple-choice examination on general subjects, and each state requires of examinees that they answer questions focused on the laws of the particular state.

4. Upon passing the bar examination, law school graduates become licensed attorneys who are permitted to handle various legal matters, from writing a simple will to conducting a jury trial in defense of a criminal defendant.

5. Because law students must pass the bar examination in order to become licensed attorneys and the examination covers a lot of subjects, few students become specialists in particular areas of law while in law school. Instead, the jobs obtained by new attorneys largely determine what types of attorneys they will be. For example, if they are hired by a law firm that specializes in family law, they may become divorce lawyers.



LEXIS

American Bar Association - Американская ассоциация адвокатов

graduation - окончание учебного заведения (университета, колледжа или школы)

subjects – дисциплины, учебные предметы

electives - выбираемые студентом факультативные программы

undergo – подвергнуться

background check – общая проверка

bar examination - экзамен при поступлении в коллегия адвокатов

multiple-choice examination - письменный экзамен, в котором учащийся из нескольких ответов выбирает правильный

examinee – кандидат, проходящий испытание

will – завещание

obtained - получаемый

5.12. QUESTIONS



1. Are the skills acquired by solicitors and barristers the same?
2. Are there electives within the syllabus of American law schools?
3. How long is a full-time LPC?
4. How many years does an LLB course last?
5. How many years is it necessary to read law in American law schools?
6. Is the period of time for earning a bachelor degree in GB and the USA the same?
7. May graduates in non-law subjects enter a law school?
8. What agency should American law schools be accredited by?
9. What are the two parts of pupillage?
10. What does a typical state bar exam involve?
11. What three stages is it necessary to complete in order to become a solicitor?

5.13. AGREE OR DISAGREE

1. A person wishing to become a solicitor must join one of the Inns of Court.
2. A solicitor usually receives a brief from a barrister in order to settle a client's case out of court.
3. If a person in Great Britain has received a bachelor degree in law he is either a solicitor or barrister.
4. State bar examinations in America are unified throughout the country as far as they are conducted by the American Bar Association.
5. The Bar Professional Training Course is mandatory for all law students.
6. The LPC should be taken only in a full-time format.

7. Trainee solicitors must pay for apprenticeship.

5.14. SUPPLEMENT FURTHER INFORMATION on the topic “Legal education”.

5.15. KEY WORDS

| | |
|-----------------------------|-----------------------------|
| attorney | legal profession |
| attorney-client privilege | legal subjects |
| bachelor degree in law | opposing party |
| bar | part-time course |
| barrister | professional responsibility |
| character trait | solicitor |
| code of professional ethics | state bar examination |
| conflict of interest | to arrange business deals |
| electives | to be called to the Bar |
| full-time course | to draft legal documents |
| graduate | to give legal advice |
| Inns of Court | to pass an examination |
| law firm | to represent a client |
| law school | to specialize in |
| lawyer | trainee solicitor |



5.16. MAKE A REPORT on the topic “Legal profession”, paying attention to the following points in your speech:

- types of lawyers and their functions in GB and the USA;
- legal education in GB and the USA;
- professional ethics and professional responsibility of lawyers.

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для магистрантов
дневного и вечернего отделений

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