

# АНГЛИЙСКИЙ ЯЗЫК

ДЛЯ СТУДЕНТОВ-ЮРИСТОВ  
ДНЕВНОГО И ВЕЧЕРНЕГО ОТДЕЛЕНИЙ

## 1 СЕМЕСТР



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Настоящее пособие предназначается для студентов первого курса дневного и вечернего отделений ОИ МГЮА по направлению подготовки «Юриспруденция», уровень подготовки: бакалавр. Цель данного пособия – последовательное обучение студентов грамматике и правовой лексике английского языка на основе образовательных текстов, адаптированных для студентов-юристов. Пособие состоит из языкового материала первого академического семестра.

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## Предисловие

Настоящее пособие предназначается для студентов первого курса (первый семестр) дневного и вечернего отделений ОИ МГЮА по направлению подготовки «Юриспруденция», уровень подготовки: бакалавр. Цель данного пособия – последовательное изучение правовой лексики на основе образовательных текстов, объединенных в шесть тематических блоков: "Форма государственного правления", "Право и источники права", "Гражданское право", "Право собственности", "Семейное право", "Договорное право".

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

**FORMATION** - перевод однокоренных слов и составление предложений с каждым из них

**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

**SAY WHAT YOU KNOW** - вопросы по изучаемой теме, предполагающие использование дополнительной информации и позволяющие высказать собственную точку зрения по изучаемой проблеме

**SKIMMING** – беглое прочтение нового текста

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

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

# Unit 1. Form of Government



**1.1. BEFORE READING** learn the following words and phrases which are essential on the topic:

**administrative** - исполнительный (о власти); административный, управленческий, правительственный

**appoint** - назначать (на должность), утверждать (в должности)

**authority** - власть, полномочие; орган власти, орган управления; сфера компетенции

**branch of power** – ветвь власти, сфера государственных полномочий

**citizen** - гражданин; гражданка (законный житель государства)

**country** – страна; народ страны; родина, отечество

**court** – суд, здание суда

**department** - департамент; ведомство, министерство, отдел

**elect** - избирать (голосованием), выбирать

**executive** = executive authority, executive branch, executive body, administration - исполнительная власть; правительство; глава исполнительной власти

**exercise power** – осуществлять властные полномочия, применять власть, проявлять государственную власть

**government** - государственное устройство; политический строй; правительство; правительственный аппарат

**head of state** - глава государства

**independence** - автономия, независимость, самостоятельность, суверенитет

**judiciary** = judicial system - судебная власть; судебная система; судоустройство

**legislature** = legislative authority, law-making body, legislative body - законодательная власть; законодательный орган

**manage** - руководить, управлять, заведовать; стоять во главе

**monarch** = sovereign, the Crown – монарх; король, королева, корона, престол; королевская власть

**parliament** - парламент

**policy** – политика, политический курс, курс действий, линия поведения

**political party** - политическая партия

**political power** – государственная власть, политическая власть

**regulate** - регулировать, управлять; регламентировать; упорядочивать, приводить в порядок

**representative democracy** - представительная демократия

**rights and freedoms** - права и свободы

**separation of power** - разделение полномочий, разграничение власти, разделение властей

**serve** - состоять на государственной службе, служить, работать

**state** – государство; штат (как субъект федерации в США и Австралии)

**state structure** = state form of government - государственное устройство



## 1.2. SCANNING

### **State System of Russia**

1. Government is a political organization which *performs* the functions of the supreme administrative body of a country. Governments are classified in a great many ways: *monarchic* systems oppose *republican* governments; *democratic* governments are distinguished from dictatorships; *federal states* are distinguished from *unitary states*; *cabinet governments* are distinguished from *presidential* ones.

2. The Russian Federation (RF) is a democratic federal state with the republican form of Government. The word "federation", as a part of the name of modern Russia, means that in our country every political *subdivision*, *despite* its size, population, and *economics*, has the same rights along with others. No region, even the *majority* of regions, can force the others *to accept* or *make a decision*: *common agreement* is necessary.

3. State power in our country is exercised on the basis of the separation of powers among the legislative (the Federal Assembly), judicial (courts of the RF), and executive (the Government) branches. The President as a head of the state coordinates the activity of all three branches of power. He is the *guarantor* of the Constitution of the RF and of human and civil rights and freedoms of citizens. The President is elected for a term of six years by the citizens of Russia on the basis of *general, equal and direct vote* by *secret ballot*. A citizen of the RF not younger than 35, who has *resided* in the RF for not less than 10 years, may be elected President of the RF but not more than for two terms *in succession*.

4. The legislative power is exercised by *the Federal Assembly*, which consists of *the Federation Council* and *the State Duma*. The State Duma has 450 seats which are allocated to the various political parties based on national election results. The deputies are elected for a four-year term. The Upper Chamber - the Federation Council – reflects the federal nature of our state, whereby political power is divided between a *central authority* and all *locally autonomous units* – the Subjects of the Federation. There are two *deputies* of the Council from each Subject: one from the executive and one from the *representative bodies*. The main job of the deputies is to make laws.

5. The executive power in Russia is exercised by the Government headed by the Prime-Minister who is appointed by the President with

consent of the State Duma. The Government manages federal property and ensures:

- the implementation of a uniform monetary policy in Russia;
- the implementation of a uniform state policy in the field of culture, science, education, health, social security and ecology;
- the country's defense, state security and the implementation of the foreign policy of the RF.

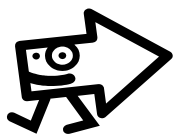
The work of the Government is regulated by federal constitutional law.

6. The judicial power belongs to the system of courts. It consists of the Constitutional Court, the Supreme Court, the Higher Arbitration Court and inferior courts. All federal judges are appointed by the President of the RF.

7. The Constitutional Court interprets the Constitution of our country. Legislative enactments, executive bylaws and international agreements may not be applied if they violate the Constitution.

8. The Supreme Court is the highest judiciary body on civil, criminal, administrative and other matters triable by general jurisdiction courts, and shall effect judiciary supervision over their activity and shall offer explanations on judicial practice issues.

9. The Supreme Arbitration Court is the highest judiciary body resolving economic disputes and other cases considered by arbitration courts, and carries out judicial supervision over their activity.



### 1.3. LEXIS

perform - исполнять, выполнять

monarchic - монархический

republican - республиканский

democratic - демократический

federal state - федерация, федеративное государство

unitary state - унитарное государство

cabinet government – парламентаризм, кабинетское правление

(система управления государством, при которой решающую роль играет кабинет министров)

presidential government - президентская форма правления; правительство, назначаемое и возглавляемое главой государства

subdivision – подразделение

despite - несмотря на, вопреки чему-л.

economics - хозяйственная жизнь, экономические характеристики, экономические показатели

majority – большинство

accept – соглашаться, принимать

make a decision – принять решение

common agreement - общее согласие

guarantor - поручитель; гарант  
 general, equal and direct vote – всеобщее прямое голосование  
 secret ballot - тайное голосование  
 reside - проживать, жить  
 in succession - подряд  
 Federal Assembly – Федеральное собрание  
 Federation Council – Совет федерации  
 State Duma - Государственная дума  
 central authority - центральная власть  
 locally autonomous unit – самоуправляющаяся территория  
 deputy - депутат  
 representative body - представительный орган  
 consent – согласие, разрешение  
 ensure - гарантировать, обеспечивать  
 implementation - выполнение, исполнение, осуществление, реализация, введение в действие  
 uniform monetary policy - единая кредитно-денежная политика  
 uniform state policy – единая государственная политика  
 social security - социальное страхование, социальное обеспечение  
 state security – государственная безопасность  
 foreign policy - внешняя политика  
 Supreme Court - Верховный суд  
 Higher Arbitration Court – Высший арбитражный суд  
 inferior courts - нижестоящий суд  
 judge – судья  
 legislative enactment - законодательный акт  
 bylaw - подзаконный акт; постановление местных органов власти  
 apply – применять, использовать  
 violate - нарушать, попира́ть, преступать  
 triable by general jurisdiction courts - подлежащий рассмотрению в суде общей юрисдикции  
 supervision - надзор, наблюдение; заведование, контроль  
 judicial practice issues – вопросы судебной практики  
 resolve economic disputes – выносить решение по экономическим спорам  
 carry out - производить; выполнять, совершать; осуществлять



#### 1.4. FORMATION

- democrat, democracy, democratic, democratize;
- execute, executed, unexecuted, executing, executor, executory, executorial, executive, executable, execution;
- govern, governable, ungovernable, governance, governed, governing, governor, governess, government, governmental;
- parliament, parliamentary, unparliamentary, parliamentarism;

- preside, President, presidency, presidential;
- represent, representing, represented, representable, representative, representation, unrepresentative, misrepresent, misrepresentation;
- republic, republican, republicanism;
- supervise, supervised, supervising, supervisory, supervision.



### **1.5. QUESTIONS**

1. What is a broad meaning of the term “government”?
2. How are governments classified?
3. What kind of state is the RF?
4. How many branches of power are on the federal level? Who coordinates all of them?
5. How are the deputies of both chambers of the Federal Assembly chosen?
6. What is the jurisdiction of these two chambers?
7. Who is the executive power in the RF headed by?
8. How is the work of Government regulated?
9. What are:
  - the powers of the President?
  - the powers of Government of the Russian Federation?
10. What is the composition of the judicial system in the RF?
11. What is the jurisdiction of three highest judicial bodies?



### **1.6. AGREE OR DISAGREE**

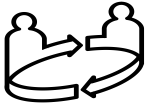
1. In a federation no region, even the majority of regions, can force the others to accept a decision.
2. In a federation the form of state structure is highly centralized.
3. The RF President is elected for a term of six years by the deputies of the Federal Assembly.
4. Any citizen of the RF may be elected President of the RF.
5. The State Duma reflects the federal nature of our state.
6. The main job of the executive agencies is to make laws.
7. All federal judges are elected by people on the basis of general, equal and direct vote by secret ballot.
8. The Supreme Court is the highest judiciary body resolving economic disputes.



### **1.7. SAY WHAT YOU KNOW about:**

- 1) the characteristic features of federal form of the Russian Federation;
- 2) pluses and minuses of the democracy;
- 3) the difference between the role of law-enforcement agencies in democratic and totalitarian states.





### 1.8. DEBATES

1. Does Russian Federation have national symbols? What do they symbolize?
2. Why does the Parliament serve as the main apparatus of the democracy? Give arguments.
3. Do you support the statement: “It is not the voting that is democracy, it is counting”?
4. What problems of Russian democracy development are the most urgent in your opinion?
5. How do you understand the well-known idea: “The essence of the democracy is not the majority power but the protection of the minority”? How does this idea respond the main principle of the democracy of minority subordination to the majority?



### 1.9. BEFORE READING

1. What do you know about the European monarchies?
2. Name some of the British Monarchs. What did they become famous for?



### 1.10. SCANNING

#### **British Monarchy**

1. The United Kingdom is one of six constitutional monarchies within the European Community. The kingdom includes the island of Great Britain (comprising England, Scotland, and Wales) and Northern Ireland. Windsor as the name of the royal family of Great Britain was adopted in 1917. The name was taken from Windsor Castle. Reigning members of the house of Windsor have been George V, Edward VIII, George VI, and Elizabeth II.

2. Actually the Monarch reigns but does not rule. He or she summons and dissolves Parliament; he/she usually opens new sessions of Parliament with a speech from the throne in which the major government policies are outlined. The Monarch must give the Royal Assent before a Bill which has passed all its stages in both Houses of Parliament can become a legal enactment (Act of Parliament). As Head of State the Monarch has the power to sign international agreements, to cede or receive territory, and to declare war or make peace. The Monarch confers honours and makes appointments to all important offices of state, including ministers, judges, officers in the armed services, diplomats and the leading positions in the Established Church. These acts form part of the Royal Prerogative, defined as arbitrary authority of legislative, executive and judicial character.

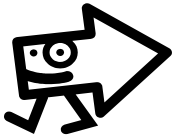
3. The House of Commons is a popular assembly elected for a term of not more than 5 years by almost universal adult suffrage. The Members of Parliament (MPs) - represent 660 geographical areas (constituencies) into which the country is divided for electoral purposes (528 for England, 41 for Wales, more than 70 for Scotland and about 20 for Northern Ireland). If an MP dies, resigns or is made a peer, a by-election is held in that constituency to elect a new MP. Leaders of the Government and Opposition sit on the front benches of the Commons, with their supporters (back-benchers) behind them. The House is presided over by the Speaker.

4. The House of Lords is probably the only upper House in the democratic world whose members are not elected. It is made up of the Lords Spiritual (the Archbishops of York and Canterbury and 25 bishops) and the Lords Temporal. The number of peers is not fixed; as of 1 April 2011 the House of Lords had 792 members. Only 90 of them were hereditary peers. The rest were life peers, named by the Sovereign on the advice of the Prime Minister, thus they could not pass on their title when they die. The main legislative function of peers is to examine and revise bills from the Commons but the House can only delay a Bill from becoming law for a maximum of 12 months. The Lords cannot normally prevent proposed legislation from becoming law if the Commons insists on it.

5. Executive power in Great Britain belongs to a Prime Minister and the cabinet of ministers. The Prime Minister is usually the leader of the majority party in the House of Commons. He or she consults and advises the Monarch on government business, supervises and to some extent coordinates the work of the various ministries and departments and is the principal spokesperson for the government in the House of Commons.

6. The cabinet is the nucleus of government. By custom, cabinet ministers are selected from among members of the two houses of Parliament. They are appointed by the Crown on the recommendation of the Prime Minister. The number of members of the British cabinet varies but usually is about 25-30 ministers. The cabinet meets in private and its deliberations are secret; no vote is taken, and, by the principle of "cabinet unanimity", collective responsibility is assumed for all decisions taken. It is a political convention for the Cabinet to act as a single man, which means that a minister who cannot accept a Cabinet decision must resign.

7. The main opposition party forms a Shadow Cabinet, which is more or less as the Government would be if the party were in power, and the relevant members act as opposition spokesmen on major issues.



### 1.11. LEXIS

European Community - Европейское экономическое сообщество

adopt - принимать

Windsor Castle - Виндзорский замок (одна из официальных загородных резиденций английских королей в г. Виндзоре, графство Беркшир; выдающийся исторический и архитектурный памятник. Строительство замка начато при Вильгельме Завоевателе в 1070)

reign – царствовать; иметь власть, влияние

rule - править; господствовать

summon – созывать, собирать

dissolve - прекращать деятельность, распускать

Royal Prerogative - королевская прерогатива

Royal Assent - королевская санкция (принятого парламентом закона)

bill - законопроект

legal enactment - закон, указ, законодательный акт

sign - подписывать(ся), ставить подпись

cede - оставлять, сдавать

confer honours - жаловать, даровать награды, почести

appointment – назначение (на должность, место)

office of state - государственное ведомство, учреждение

Established Church - государственная церковь (официально признана государством и частично финансируется им)

arbitrary authority – полномочие произвольно принимать решение

House of Commons - палата общин

popular assembly – народное собрание

universal adult suffrage - всеобщее избирательное право

constituency - избирательный округ

be made a peer - возвести в пэры, утвердить членом палаты лордов

hold by-election - проводить дополнительные выборы

front bench - министерская скамья в английском парламенте или скамья, занимаемая лидерами оппозиции в парламенте

back-bencher - рядовой член парламента, "заднескамеечник"

preside over - председательствовать

Speaker - спикер (старшее должностное лицо в палате общин;

председательствует на её заседаниях, следит за соблюдением правил парламентской процедуры и порядком дебатов; избирается из числа членов палаты; не принимает участия в дебатах и голосовании, за исключением тех случаев, когда голоса делятся поровну; тогда его голос является решающим)

House of Lords - палата лордов

upper House - верхняя палата

Lords Spiritual - "духовные лорды" (епископы - члены палаты лордов)

Lords Temporal - "мирские лорды" (светские члены палаты лордов)  
 fix - устанавливать; фиксировать  
 hereditary peer - наследственный пэр  
 life peer - пожизненный пэр  
 pass on - передавать, оставлять (по наследству и т. п.)  
 examine – рассматривать; изучать  
 revise - видоизменять, изменять, модифицировать, перерабатывать, пересматривать  
 delay - задерживать, замедлять; препятствовать  
 prevent - препятствовать, мешать, не допускать  
 proposed legislation - предложенный законопроект  
 insist on - настаивать на  
 majority party – партия большинства  
 government business - государственные заказы  
 ministry - ведомство, департамент, министерство  
 spokesperson – представитель; лицо, выступающее от чьего-л. имени, оратор  
 nucleus - ядро; центр  
 cabinet minister - член совета министров  
 vary - изменять(ся), менять(ся)  
 integrate – объединять, интегрировать  
 submission - передача на рассмотрение, представление документов  
 in private - наедине; конфиденциально  
 deliberation - рассмотрение, обсуждение, дискуссия  
 unanimity - единодушие  
 collective responsibility - коллективная ответственность (принцип управления, при котором каждый член органа, принимающего решения, сохраняет свое членство только при условии принятия на себя полной ответственности за все решения данного органа)  
 single man – одно лицо, единый субъект  
 resign - уходить в отставку, подавать в отставку; оставлять пост  
 Shadow Cabinet - "теневой кабинет" (парламентский комитет главной оппозиционной партии, состоящий из ведущих деятелей этой партии, которые занимаются теми же вопросами, что и члены кабинета)



### 1.12. FORMATION

- constitution, constitutional, unconstitutional, non-constitutional, constitutionalism, constitutionality, constitutionally;

- evolve, evolution, evolutionary, evolutionist, evolutionary;
- king, kingcraft, kingdom, kinglike, kingly, kingmaker;
- monarch, monarchy, monarchist, monarchic, monarchical.

- history, prehistory, historic, prehistoric, historical, historically, historian, historiography, historiographer, historicity;
- oppose, opposable, opposed, opposer, opposing, opposite, oppositely, opposition.



### **1.13. QUESTIONS**

1. How many European states are constitutional monarchies?
2. Which parts does the United Kingdom comprise?
3. What are the powers and functions of the Monarch today?
4. Who governs in the name of the Sovereign?
5. How are cabinet members selected?
6. What does the British Parliament consist of?
7. What types of lords are in the upper chamber?
8. How are members of the House of Commons elected?
9. How long is the term of MPs?
10. Is the Prime Minister in GB usually elected or appointed?
11. What are the functions of the Prime Minister?
12. How is the Cabinet formed?
13. Is the number of members of the British Cabinet fixed?
14. It is a political convention for the Cabinet to act as a single man. What does it mean?
15. What is a Shadow Cabinet?



### **1.14. AGREE OR DISAGREE**

1. In fact the Monarch reigns but does not rule.
2. The Monarch makes appointments to all important offices of state, excluding judges and leading positions in the Established Church.
3. Part of the Queen's Royal Prerogative is the power to prorogue Parliament.
4. A Bill becomes an Act of Parliament even without the Royal Assent.
5. A Cabinet cannot be formed or a Minister cannot take up office without the Monarch's consent and approval.
6. The Monarch does not have the power to cede territory or to declare war.
7. The position of Prime Minister is based on convention, not statute.
8. The Crown presides over meetings of the Cabinet.
9. The Cabinet meets in private and its discussions are secret.
10. The Cabinet determines, controls and integrates the government policies which are then presented to Parliament for consideration.



### 1.15. SAY WHAT YOU KNOW about:

- 1) any of the 56 monarchs of England, from Alfred the Great, in the ninth century, to Elizabeth II today;
- 2) the changes that the Royal Family has shown itself willing to accept, such as The Queen's decision to pay tax, changes being made to the Civil List, and the opening of Buckingham Palace to the public to help fund the restoration of Windsor castle;
- 3) the history of the British Parliament;
- 4) some traditions and ceremonies still kept in the Parliament;
- 5) the UK Constitutional Reform, 1999;
- 6) the future of the monarchy in Great Britain.



### 1.16. BEFORE READING

Provide a detailed examination of the historical and philosophical origins of the federal idea and its subsequent evolution as modern federalism.



### 1.17. SCANNING

## **US Political System**

1. The United States of America is a federal republic and a representative democracy on the continent of North America, consisting of 50 states. The nation Constitution defines the powers of national and state governments, the functions and *framework* of all three branches of federal government (legislative, executive, judicial) and the rights of individual citizens.

2. The form of government is based on three main principles: *federalism*, the separation of powers, and *respect for* the Constitution and the *rule of law*. Americans *are subject to* two governments, that of their state and that of the Union, and each has its own *distinct* function. The states have, under the Constitution, the primary functions of *providing law and order*, education, *public health* and most of the things which *concern day-to-day* life. The Federal government at Washington *is concerned with foreign affairs* and with *matters* of general concern to all the states, including *commerce* between the states.

3. At each level, in state and Union, there is a constitution which defines and limits political power, and which provides *safeguards* against tyranny and *means* for *popular participation*. In each state, power is divided between three *agencies*, with *law-making power* given to a legislature (usually of two houses, elected for fixed terms), an executive (the *governor*), and finally the judges of *the State Supreme Court*. Each state is divided into *counties*, which have their own pow-

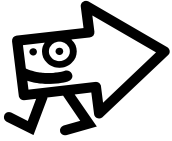
ers, and there are also special-purpose areas for some functions of local interest.

4. The Federal government also has three elements - executive (the President), legislature (Congress) and judicial (federal courts), and the three elements are checked and balanced by one another. The President is the effective head of the executive branch of government as well as head of state. In November of each leap year a President is elected to serve for exactly four years from a fixed day in the following January. The four-year rhythm has never been broken. Together with the President, a Vice-President is elected, and if the President dies the Vice-President becomes President for the unexpired part of the four years - which could be 3 years or only three months. According to the Constitution a Vice-President acts as the presiding officer of the U.S. Senate.

5. Since the adoption of the Constitution, the national government has increased its functions in economic and social matters and has shared more responsibilities with the states. The executive branch of the government, headed by the President, comprises 14 departments: e.g. the Department of State, Department of Treasury, Department of Justice, Department of Commerce, Department of Health and Human Services, Department of Education, Department of Transportation, Department of Energy.

6. All legislative powers are exercised by the Congress of the United States. Congress consists of two houses, the Senate and the House of Representatives. The Senate contains 100 senators, two representing each state - a provision of the Constitution not subject to amendment. The 435 members of the House are elected by the different states on the basis of their population at the most recent U.S. census. California has the largest number of representatives, 52; several states, such as Delaware, Alaska and Vermont, have only one. Representatives serve two-year terms, and senators six-year terms. Every two years all 435 members of the House are elected, and one-third of the senators.

7. The federal court system includes the Supreme Court of the United States, established by the Constitution; and 12 courts of appeal (sometimes called circuit courts), 91 district courts, and special courts such as the Tax Court and the Court of Veterans' Appeals, all established by Congress. The federal courts perform two constitutional functions. First, they interpret the meaning of laws and administrative regulations; this is known as statutory construction. Second, the courts determine whether any law passed by Congress or state legislatures, or any administrative action taken by the national or state executive branches, violates the U.S. Constitution; this is known as judicial review.



### 1.18. LEXIS

framework - структура, строение

federalism - федерализм

respect for - уважение; почтительное отношение

rule of law - принцип господства права

be subject to – подчиняться, находиться под действием, зависеть от

distinct - отдельный; особый, индивидуальный

provide – обеспечивать, предоставлять

law and order - правопорядок

public health - здравоохранение

concern - касаться, относиться; затрагивать

day-to-day - будничный, обыденный, повседневный

be concerned with - занятый чем-л.; связанный с чем-л.; имеющий отношение к чему-л.

foreign affairs - международные отношения; внешняя политика

matter - тема, вопрос, предмет

commerce - торговля; коммерция

safeguards - мера безопасности

means – средства, механизм

popular participation - участие населения, народное соучастие

agency - орган, учреждение, организация, ведомство

law-making power - право законодательства, право законодательствовать

governor - губернатор

State Supreme Court – Верховный Суд штата

county - округ, графство, губерния

special-purpose area – территориальное подразделение, образованное для конкретной цели (округ, ответственный за охрану экологии крупного природного объекта; округ с едиными требованиями в общем образовании и т.п.)

Congress - конгресс

check - ограничивать, сдерживать, обуздывать, регулировать

balance - сохранять равновесие; уравнивать (что-л.; чем-л.)

effective – зд.: действующий; фактический

leap year - високосный год

rhythm – ритм, периодичность, цикличность

vice-president - вице-президент

unexpired - неистекший (о сроке)

presiding officer - председательствующее лицо, лицо, наблюдающее за правильностью подсчёта голосов

national government - центральное, национальное правительство

increase - увеличивать; усиливать

share - делить, распределять; разделять, делиться

responsibility – ответственность; обязанность; обязательство



comprise - включать, заключать в себе, содержать  
 Department of State - Государственный департамент (министерство иностранных дел США)  
 Department of Treasury - министерство финансов  
 Department of Justice - министерство юстиции  
 Department of Commerce - министерство торговли  
 Department of Health and Human Services - министерство здравоохранения и социальных услуг [социального обеспечения]  
 Department of Transportation – министерство транспорта  
 Department of Energy - министерство энергетики  
 Senate - сенат (верхняя палата конгресса США)  
 House of Representatives - палата представителей (нижняя палата)  
 senator – сенатор, член сената США  
 provision - положение, условие (договора и т. п.)  
 not subject to amendment – не допускающий поправок, не подлежащий изменению  
 census - перепись населения, сбор сведений  
 Delaware - Делавэр (сокращение - DE или Del.)  
 Vermont - Вермонт  
 court of appeal - апелляционный суд  
 circuit court - федеральный окружной суд  
 district court - федеральный районный суд (первой инстанции)  
 Tax Court - налоговый суд  
 Court of Veterans' Appeals – суд, рассматривающий обращения ветеранов  
 interpret - объяснять, толковать, интерпретировать  
 administrative regulation - административное предписание  
 statutory construction - толкование закона  
 violate - нарушать, попира́ть, преступать  
 judicial review - судебный контроль



### 1.19. FORMATION

- amend, amending, amended, unamended, amendable, amendatory, amendment;
- limit, limitable, limited, limitless, unlimited, delimited, limiting, limiting, limitation, limiter;
- settle, settleable, settled, settler, settlement, settling, unsettled;
- stable, unstable, stableness, stability, instability, stabilize, stabilizing, stabilized, unstabilized, stabilizer, stabilizable, stabilization, stabilizator.



### 1.20. QUESTIONS

1. How many states are there in the USA?
2. How old is the US Constitution?

3. Each state in the USA has its own constitution, doesn't it?
4. What is the US national government responsible for?
5. The seat of the national government is New York, isn't it?
6. What is the purpose of creating a system of checks and balances?
7. How many members are chosen to the US Congress?
8. Do all states have the same number of members of the House of Representatives?
9. Are all senators reelected every two years?
10. What is the structure of the federal court system?
11. Why are federal courts sometimes called constitutional courts?

### **1.21. AGREE OR DISAGREE**



1. Americans are subject to two governments.
2. The executive branch of the federal government comprises 25 departments.
3. Representatives serve four-year terms, and senators two-year terms.
4. The Supreme Court of the United States, as well as 12 courts of appeal, 91 district courts, and special courts such as the Tax Court and the Court of Veterans' Appeals, are all established by Congress.
5. The federal courts perform two constitutional functions.

### **1.22. SAY WHAT YOU KNOW** about:



- 1) how the Constitution of the USA was created;
- 2) amendments to the US Constitution;
- 3) the Bill of Rights (1791) as a part of the US Constitution;
- 4) elections of the US President and the role of Electoral College;
- 5) some of the American states.

### **1.23. DEBATES**



In Russia, the national (ethnic) principle, even though supplemented by the territorial one, has become the crucial one in building federal statehood. On the contrary, the national (ethnic) factor is not a federal principle in the USA and has no meaning in the construction of American federalism. Why is it so?

### **1.24. KEY WORDS**

Act of Parliament  
 administrative  
 authority  
 branch of power  
 by-election  
 Cabinet

legislature  
 Lord  
 majority party  
 monarch  
 Official Opposition  
 parliament

chairperson	parliamentary monarchy
checks and balances	policy
citizen	political party
Congress	political power
constituency	President
constitution	representative democracy
constitutional court	rights and freedoms
country	Royal Family
court	separation of power
department	Shadow Cabinet
deputy	Speaker
executive body	state
Federal Assembly	State Duma
federal court	state government
federal government	Subject of the Federation
federalism	Supreme Court
Federation Council	to appoint
general election(s)	to be subject to
government	to elect
head of state	to exercise power
Higher Arbitration Court	to manage
House of Commons	to regulate
independence	to serve
judiciary	Vice-President



**1.25. MAKE A REPORT** on the topic “Form of Government”, paying attention to the following points in your speech:

- definition of government as a political organization;
- classification of governments;
- division of powers in modern governments;
- comparative description of structure, composition and functions of three branches of power (legislative, executive and judicial) in Russia, Great Britain and the USA.

## Unit 2. Law and Its Sources



**2.1. BEFORE READING** learn the following words and phrases which are essential on the topic:

**adjective law** = law of procedure, procedural law - процессуальное право, формальное право

**agreement** - договор, соглашение

**bill** - законопроект, билль (вносимый в парламент на обсуждение)

**branch of law** - отрасль права, область права

**civil law countries** – страны с континентальной (цивильной, римской) системой права

**common law** - общее право (прецедентное право), англосаксонское право (в отличие от континентального права)

**common law countries** - страны с англосаксонской системой права (основанной на общем/некодифицированном праве); страны-незаконодатели

**custom** - обычай, традиция

**enforce** - проводить в жизнь; придавать законную силу; осуществлять, приводить в исполнение

**govern** - править, управлять, регулировать, регламентировать

**international law** = law of nations - международное право

**interpret** - объяснять, интерпретировать, толковать (правовую норму, закон, договор)

**justice** – справедливость, правосудие; юстиция

**law** - закон; правило; право; правоведение, законоведение, юриспруденция

**lawmaker** = legislator, lawgiver – законодатель, субъект правотворчества

**legal rule** - норма права, правовая норма; принцип господства права

**legal action** - правовое действие, судебный иск, судебное дело, судебный процесс

**legislation** = enacted law, enactments - законодательство; писаное право, закон, свод законов

**make law** - издавать законы, устанавливать правовые нормы

**means of social control** – средство/инструмент общественного контроля

**national law** = domestic law, internal law, municipal law - внутригосударственное право

**negotiate** - вести переговоры, договариваться (с кем-л.); обсуждать условия

**precedent** - судебный прецедент

**private law** - частное право, частный закон; закон, действующий в отношении конкретных лиц

**prohibit** – запрещать, препятствовать

**protection** – защита, охрана, средства защиты

**provision** - положение, условие (договора, закона и т. п.); постановление; обеспечение; предоставление; предоставляемая возможность

**public law** = political law - общественное право, публичный закон (закон, касающийся всего населения)

**public opinion** – общественное мнение

**regulation** - предписание, постановление, распоряжение, директива

**resolution of disputes** - разрешение споров

**settle** - улаживать(ся); решать, приходить или приводить к решению; регулировать(ся); приводить(ся) в порядок; утрясать

**society** - общество; объединение, организация

**source of law** - источник права

**substantive law** - материальное право

**treaty** - международный договор



## 2.2. BEFORE READING

1. Have a look at these eight different meanings of the noun “**law**” given in a dictionary. Make your own sentences with all of them:

1) the whole system of rules that everyone in a country or society must obey; 2) a particular branch of the law; 3) a rule that deals with a particular crime, agreement, etc.; 4) the study of the law as a subject at university, etc.; 5) one of the rules which controls an organization or activity; 6) a rule for good behaviour or how you should behave in a particular place or situation; 7) the fact that sth always happens in the same way in an activity or in nature; 8) a scientific rule that sb has stated to explain a natural process.

2. What is the role of law in a modern society?

3. If there are different branches of law what is the reason to have so many of them?

4. What is a “system” in its general meaning? What do you know about the system of law in our country?



## 2.3. SCANNING

### **Law**

1. Law is a body of official rules and regulations, generally found in Constitutions, Treaties, Acts of Parliament, ordinances, executive orders, enforced customs, court decisions, that are used to govern a society and to control the behaviour of its members. The nature and functions of law have varied throughout history. In modern societies, some authorized body such as a legislature or a court makes the law. Law is backed by the coercive power of the state, which enforces the law by means of appropriate penalties or remedies.

2. Formal legal rules and actions are usually distinguished from other means of social control such as mores, morality, public opinion,

and custom or tradition. Of course, a lawmaker may respond to public opinion or other pressures, and a formal law may prohibit what is morally unacceptable.

3. It goes without saying that law affects every aspect of our lives; it governs our conduct from the cradle to the grave and its influence even extends from before birth to after our death. Being a complex body of rules, law serves a variety of functions. There are, for instance, laws which govern working conditions (e.g. by laying down minimum standards of health and safety), or laws which control personal relationships (e.g. by prohibiting marriage between close relatives). Property and contract laws facilitate business activities. Laws against crimes help to maintain a peaceful, relatively stable society. Laws limiting the powers of government help to provide some degree of protection against any excessive misuse of authority. Law has also been used as a mechanism for social change; for instance, at various times laws have been passed to inhibit social discrimination and to improve the quality of individual life in matters of health, education, and welfare.

4. The system of law in general 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.

- Labour Law covers matters arising from labour relations of employees and their employers.

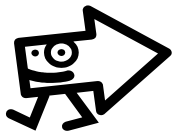
5. **Substantive and Adjective Law.** Substantive Law defines the rights and duties of persons; it determines a wide variety of matters - for example, what is required to form a contract, what the difference is between larceny and robbery, when one is entitled to compensation for an injury, and so on.

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.



#### 2.4. LEXIS

ordinance - указ, распоряжение; декрет; приказ

executive order - правительственное постановление

enforced custom – обычай, обеспеченный правовой

санкцией

judicial opinion - судебная практика

behaviour - образ действий, поведение

back - поддерживать; подкреплять

coercive power - власть, основанная на принуждении (на возможности применения или отмены наказания)

penalty – наказание; взыскание; штраф

remedy - средство судебной защиты, средство защиты права

mores – нравы, обычаи, традиции

morality – мораль, нравственность; этика

respond to - реагировать

pressure - острая необходимость, воздействие

from the cradle to the grave - всю жизнь, от рождения до смерти

working conditions - условия труда

health and safety - техника безопасности и охрана здоровья

prohibit – запрещать, не позволять

close relatives - близкие (кровные) родственники

facilitate - облегчать; содействовать; способствовать; продвигать

maintain - поддерживать, удерживать, сохранять

limit - ограничивать

excessive misuse of authority - чрезмерное злоупотребление властью

inhibit - подавлять, препятствовать, сдерживать

discrimination - дискриминация; неодинаковое отношение

welfare - благоденствие, благополучие, благосостояние

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  
labour relations - трудовые отношения (отношения, возникающие  
между работодателем и его работником)  
employee - служащий; работающий по найму  
employer - наниматель, работодатель  
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

## 2.5. FORMATION



A. Translate the given word forms into Russian. Explain the rule according to which they were derived. Find examples in the text.

1. unacceptable, unaccountable, unforgettable, unbearable;
2. relatively, positively, comparatively, objectively;
3. responsibility, audibility, credibility, sensibility;
4. citizenship, friendship, ownership, scholarship;
5. government, arrangement, measurement, judgement.

B. Consult a dictionary. Find examples to illustrate the rule.





## 2.6. QUESTIONS

1. What does the word “law” as a legal term mean?
2. What does the phrase “law enforcement” mean?
3. What are the main functions of law?
4. How does the law influence the society?
5. How laws may be classified?
6. What law serves as a leading branch of the whole legal system?
7. What does Substantive Law define?
8. What is a difference between International and National Law?
9. What branches of law does Public Law include?
10. What does Adjective Law deal with?



## 2.7. AGREE OR DISAGREE

1. It is publicity and transparency that the law is basically backed by.
2. All legal norms depend on public opinion.
3. The powers of government cannot be restricted by laws.
4. Absence of laws makes life of people more stable, equal and free.
5. International law is an equivalent of Internal law.
6. Law is used as a deterrent device against any social change.
7. Constitutional law regulates private affairs among citizens.
8. The Constitution is a supreme law, thus it can't be changed or amended.
9. Labour law and Administrative law cover matters arising from contracts.
10. Family matters are resolved under Financial law.
11. Public law includes Constitutional, Administrative, Civil and Criminal law.



## 2.8. SAY WHAT YOU KNOW about:

- natural and positive law;
- reflection of natural law on Russian legal system;
- institutions that make laws;
- the protection of people’s rights by particular branches of law;
- branches of Private law.



## 2.9. BEFORE READING. Answer the following questions:

- 1) What do we call “a source of law”?
- 2) Which sources of Russian law do you know?
- 3) Do all national legal systems have the same sources of law?
- 4) What do you know about different legal systems in the world?



## 2.10. SCANNING

### **Sources of English Law**

1. The courts are the interpreters and declarers of the law, the «sources» of law are therefore the sources to which the courts turn in order to determine what law is. Considered from the aspect of their sources, laws are traditionally divided into written (formally enacted) or unwritten (unenacted law). In England unwritten law is predominant, for more of English law has derived from judicial precedents than from legislative enactment. Two principal and two subsidiary sources there should be mentioned. These **principal sources** are Legislation and Judicial Precedent; the **subsidiary sources** are Custom and Books of Authority.

2. **Legislation** is enacted law. Legislation 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;
- by-laws made by local authorities, they require the approval of the appropriate Minister before they have legislative force.

3. 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».

4. **Customs** are social habits of behaviour, which all societies seem to evolve without express formulation or conscious creation. Customs, prevailing among particular groups of people living in particular localities, are sometimes recognized by the courts as capable of creating a special law for the locality. But recognition will only be accorded if the custom: 1) is reasonable, 2) is certain, 3) has existed since «time immemorial».

5. In England the writings of legal authors form an essential source of law, for there are certain «books of authority», written by authors of outstanding eminence, which may carry a weight of authority almost equal to that of precedent. Among the most important of these works are Bracton's "De Legibus et Consuetudinibus Angliae" (thirteenth century), Coke's "Institutes" (1628-1641) and Blackstone's "Commentaries" (1765).

6. Since Britain's accession to European Community, **Community Law** forms an independent source of English law. Community law has not been incorporated or made identical with domestic law but operates as a separate system side by side with that law. In the event of conflict Community law prevails over domestic law.



### 2.11. LEXIS

declarer – тот, кто декларирует, провозглашает что-либо

written law - писаное право, статутное право

unwritten law - неписанный закон, неписаное право,

прецедентное право

derive from - происходить

principal source - основной источник

subsidiary source – дополнительный, второстепенный источник

Book of Authority – книга, написанная авторитетным специалистом

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

by-laws - 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

express formulation - точная формулировка

conscious creation – целенаправленное формирование

reasonable - разумный, благоразумный; рациональный; здравый

certain - верный, известный, проверенный, надежный; бесспорный

time immemorial - незапамятное время

writings of a legal author - труды юриста-теоретика, работы эксперта по праву

author of outstanding eminence - выдающийся исследователь

weight of authority – значимость, авторитетность, весомость

accession - вступление

incorporated - введённый в состав

identical - тождественно равный, идентичный  
prevail - иметь преимущественную силу



### 2.12. FORMATION

A. Translate the given word forms into Russian. Explain the rule according to which they were derived. Find examples in the text.

B. Consult a dictionary. Find examples of your own to illustrate the rule.

1. immemorial, impossible, impracticable, imprecise;
2. independent, inaccessible, inaccurate, ineducable;
3. irrelevant, irremovable, irreparable, irrespective;
4. unwritten, unwilling, unwarranted, unwanted.

### 2.13. QUESTIONS



1. What do the expressions «written» and «unwritten law» signify?

2. What are principal/subsidiary sources of English law?

3. Is most English law codified?

4. What are the types of Legislation?

5. What authorities pass legislation in England?

6. What is regarded as «precedent»?

7. Has English law developed from fixed general rules or through decisions in individual cases?

8. When are customs recognized by courts as capable of creating a special law?

9. What does a «book of authority» mean?

10. Is Community Law a part of domestic law of England? What prevails in the event of conflict?

### 2.14. AGREE OR DISAGREE



1. In England written law is predominant.

2. The courts in England are the interpreters and declares of the law.

3. Legislation includes both enacted and unenacted law.

4. Rules, made by Ministers, need not be submitted to the Parliament.

5. In England the decisions of higher courts are treated with respect.

6. Coke's «Institutes» can also be considered a source of law in England.

### 2.15. DEBATES



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



## 2.16. SAY WHAT YOU KNOW about:

- unicameral or bicameral legislative systems in different countries;
- features of our national legal system;
- those who have the right to initiate the legislative process in Russia;
- stages of a lawmaking process in Russia or any other country.



## 2.17. BEFORE READING

1. How can you define International Law?
2. What are the sources of contemporary International law?
3. What is the interrelation between National law and International law?



## 2.18. SCANNING



### **Concept of International Law**

1. In order to understand international law concepts, it is helpful to consider the world's different types of legal systems. There are three main types of legal systems: common law, civil law and religious law:

- The oldest and most influential is the Roman-Germanic legal system, commonly called Civil (or Civic) Law. In this meaning Civil Law is the law contained in extensive codes and accompanying statutes. Although civil law countries do have judicial systems, their court cases are typically not considered binding law in the way they are under common law systems.

- The United States and most former British colonies have a Common Law legal system. In common law systems, judicial precedents, i.e. case law, is a major source of law, although most common law systems also rely on statutes and regulations.

- Religious law tends to govern personal matters in the countries in which it operates. Most religious legal systems operate alongside a civil or common law system and are most prevalent in Islamic countries and Israel.

2. By definition, International Law is the common concern of nations, a blend of legal systems, cultures, ideas and experiences. International law is derived from custom, treaties, court cases, statutes, and all other sources used in national law. The main concept of International Law is the regulation of relations between different states. International Law attempts to establish a workable framework for intergovernmental relations as well as provide criteria and procedures for the resolution of disputes among states.

3. International Law tends to settle international disputes by different forms of treaties: conventions, agreements, exchange of letters, protocols, covenants, charters, which can be either bilateral or multilateral in nature. For instance:

- convention is a multilateral treaty or the instrument negotiated under the auspices of an international organization especially one dealing with a specific matter such as postal service, copyright, etc.; conventions are normally open for participation by the international community as a whole, or by a large number of states;

- agreement is a mutual arrangement based on unanimity and tending to involve cultural exchange, economic or technical operation as well as using control of the terms of a transaction;

- the term "charter" is used for particularly formal and solemn instruments, such as the constituent treaty of an international organization;

- protocol is generally an international agreement that supplements a previous one.

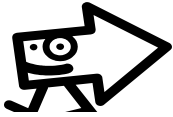
4. International law includes several provisions outlining methods of dispute settlement. They require states to "settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered". Thus Article 33 of the UNO Charter calls for peaceful settlement of disputes through "negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice".

5. 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.



## 2.19. LEXIS

concept - понятие, идея; общее представление; концепция

consider - рассматривать, учитывать

Roman-Germanic - римско-германский

extensive - подробный

binding law - императивная норма

former - бывший

case law - прецедентное право

rely on – основываться, опираться, полагаться

prevalent - распространенный, общепринятый, всеобщепотребительный

common concern – общая забота, общая для всех проблема

experiences – знания, опыт применения

workable framework - оптимальные рамки, применимая система взглядов, реальная точка отсчета

intergovernmental - межправительственный

procedure - процедура; порядок

convention - соглашение, договоренность, договор, конвенция

protocol - дополнительное международное соглашение

covenant - международный пакт, договор или акт за печатью

charter - хартия, устав

bilateral - двусторонний

multilateral - многосторонний

under the auspices - при содействии, под покровительством

postal service - почтовая служба, почтовая связь

mutual arrangement - взаимное, обоюдное соглашение, договоренность

unanimity – единодушие, единогласие

cultural exchange - культурный обмен

transaction - дело; сделка, соглашение

solemn - торжественный; официальный; удовлетворяющий всем формальным требованиям

constituent treaty – учредительный договор

supplement – дополнять, добавлять

outline - обрисовать, наметить в общих чертах

peaceful means - мирные средства

endanger - подвергать опасности

enquiry - исследование обстоятельств дела, изучение

mediation - посредничество, вмешательство с целью примирения

conciliation - примирение, согласительная процедура, мировое соглашение

arbitration - третейский суд, арбитраж

resort to - обращение за помощью к

arrangement – структура, организация, мероприятие, сделка  
 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  
 intergovernmental – межправительственный, межгосударственный  
 transnational - транснациональный  
 money laundering – отмыwanie денег  
 drug trafficking - контрабанда наркотиков, незаконный оборот наркотиков



### 2.20. FORMATION

A. Translate the given word forms into Russian. Explain the rule according to which they were derived. Find examples in the text.

B. Consult a dictionary. Find examples of your own to illustrate the rule.

1. unilateral, unicameral, uniform, unipolar;
2. bilateral, bilingual, bicameral, biannual;
3. triangle, triarchy, tricolour, tricycle.
4. quadruple, quadruped, quadripole, quadripartite;
5. multinational, multilingual, multimedia, multilevel;



### 2.21. QUESTIONS

1. What are the world's different types of legal systems?
2. What is the main concern and concept of International Law?
3. What are the basic means of settling down international disputes among states?
4. Why should some questions be regulated both by national legal systems as well as by intergovernmental acts?



### 2.22. AGREE OR DISAGREE

1. The Anglo-American legal system of common law is the oldest and most influential.
2. International Law is actually a blend of legal cultures.
3. A treaty is a formal agreement between two or more states in reference to peace, alliance, commerce, or other international relations.



4. A convention is under international law a large meeting of the members of a profession or a political party.
5. International law regulates questions which cannot be resolved by one state.

### 2.23. DEBATES



Larger organizations and institutions, whether public or private, are almost always, and inherently, less efficient, more resistant to change, more hierarchic, and less transparent than smaller organizations. International organizations are by nature huge ones. How one can prevent global organizations becoming either dangerous tyrannies or self-expanding bureaucracies, and instead make them effective and responsive to the people whose lives they affect?

### 2.24. SAY WHAT YOU KNOW



- about international agreements and conventions dealing with international relations and law;
- about international issues which can be resolved unilaterally;
- about any difference between mediation and good offices; between mediation and negotiations;
- about the advantages and disadvantages of arbitration.

### 2.25. KEY WORDS

adjective law	peaceful means
agreement	precedent
bill	principal source
branch of law	private law
by-law	protection
civil law countries	provision
common law	public law
common law countries	public opinion
Community Law	regulation
custom	resolution of disputes
enactment	right of legislative initiative
international dispute	society
international law	source of law
introduction of a bill	subsidiary source
judicial settlement	substantive law
justice	to enforce
law	to govern
lawmaker	to interpret
legal action	to make law

legal rule	to negotiate
legislation	to prohibit
means of social control	to settle
national law	treaty
negotiations	writings of legal authors



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

- definition of law;
- sources of law in different legal systems;
- different branches of law;
- classifications of law;
- nature and functions of International law.

## Unit 3. Civil Law



**3.1. BEFORE READING** learn the following words and phrases which are essential on the topic:

**action** - иск, исковое требование, претензия; судебное дело, судебный процесс; судебное преследование; обвинение

**appeal** - апелляция, апелляционная жалоба; обжалование

**civil procedure** - гражданский процесс, гражданское судопроизводство; гражданско-процессуальное право

**complaint** – иск, жалоба, претензия; прошение; официальное обвинение

**contract** - договор, соглашение, контракт (устное или письменное соглашение между двумя и более сторонами, направленное на установление, изменение или прекращение гражданских прав или обязанностей)

**copyright** - авторское право; издательское право; право литературной собственности

**damages** - возмещение убытков, компенсация за убытки

**duration** - срок действия, продолжительность, срок полномочий

**evidence** - 1) средство или средства доказывания; доказательство, доказательства; подтверждение; улика; свидетельские показания | служить доказательством, подтверждать, доказывать; свидетельствовать, давать показания

**intellectual property law** - закон об интеллектуальной собственности (концепция юридической защиты оригинальных произведений; касается товарных знаков, патентов, авторского права)

**jurisdiction** - 1) отправление правосудия; юрисдикция 2) подсудность; подведомственность; подсудственность 3) судебная

практика 4) судебный округ 5) орган власти 6) территория в подведомственности органа власти

**jury** - присяжные, состав присяжных; коллегия присяжных; суд присяжных

**injury** - вред, повреждение, порча, убыток, ущерб; нарушение права другого лица

**issue** - спорный вопрос, предмет спора, разногласие; проблема

**licence** – лицензия; разрешение на использование материалов, защищенных патентным или авторским правом || разрешать, давать разрешение, лицензировать

**litigation** - гражданский судебный спор, тяжба, судопроизводство, процесс

**obligation** - обязательство, долг, обязанность; принудительная сила (закона, договора)

**ownership** - собственность; владение; обладание, право собственности

**party** - (участвующая) сторона; лицо, участвующее в сделке или заключающее соглашение, участник судебного процесса; юридическая сторона

**patent** - патент (охраненный документ на изобретение, удостоверяющий признание предложения изобретением, его приоритет и исключительное право на него патентообладателя)

**pleading** - 1) предварительное производство по делу, обмен состязательными бумагами 2) состязательные бумаги (которыми обмениваются стороны на предварительной стадии судебного разбирательства) 3) выступление стороны или адвоката в суде 4) судоговорение

**proof** - доказательство, доказывание, судебное следствие

**property** - имущество; собственность; состояние, хозяйство

**registered design** - зарегистрированный промышленный образец, внесенный в реестр промышленный образец

**relationship** - отношение, взаимоотношение; взаимосвязь

**responsibility** = accountability, liability – ответственность, способность отвечать за содеянное; вменяемость

**review** – пересмотр, рассмотрение, проверка || пересматривать (судебное дело)

**seek damages** - требовать возмещения убытков (компенсации), обращаться в суд с иском о возмещении ущерба

**sue** - 1) преследовать судом 2) подавать в суд 3) возбуждать иск 4) предъявлять иск или обвинение, искать в суде, 5) преследовать по суду, 6) выступать в качестве истца или обвинителя

**suit** = suit in law, lawsuit - 1) иск; преследование по суду; 2) судебное дело; судебная тяжба; судебный процесс; судопроизводство, 3) прошение, ходатайство, обращение

**tort** - деликт, гражданское правонарушение

**trade mark** - товарный (торговый, фирменный) знак

**trade secret** - коммерческая тайна, производственный секрет; засекреченная технология

**transaction** - сделка, торговая операция, соглашение

**trial** - судебное разбирательство, судебный процесс, слушание дела по существу

**venue** - 1) место рассмотрения дела, территориальная подсудность; подсудность по месту совершения действия 2) часть искового заявления, содержащая указание на территориальную подсудность



### 3.2. SCANNING

#### **Substantive Civil Law**

1. Substantive civil law consists of numerous sets of principles determining the rights, duties and obligations that exist between individuals and institutions such as corporations and government bodies. Each set of principles is covered by a separate civil law category, developed by the courts and legislatures over a long time. Below you will find some of the more common substantive civil law categories *utilized* by the *law books*:

2. **Civil Rights law** comprises statutes and constitutional provisions that apply to discrimination on the basis of such legally recognized characteristics as race, sex, ethnic or national background or color.

3. **Commercial law** includes such titles as principal and agent, borrower and lender, bank and their customers, wholesaler and retailer and mortgagor and mortgagee; carriage by land and sea; bill of lading and bill of exchange.

4. **Consumer protection laws** are a form of government regulation which aims to protect the rights of consumers. For example, a government may require businesses to disclose detailed information about products - particularly in areas where safety or public health is an issue, such as food.

5. **Contract law** indicates when written or oral agreements are enforceable, how they are discharged, when they may be broken, and what happens if they're broken or cancelled.

6. **Company law** (also "corporate law" or "the law of business association") 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.

7. **Education law** deals with the rights of students and the restrictions placed on them by schools, educational standards, competency testing, financial assistance to students, teachers' rights and responsibilities.

8. **Labour law** can be divided into two parts. The first one, employment law or individual labour law, is the part which regulates individual employment rights, for example, the rules relating to unfair dismissal, equal pay, etc. The second one, collective labour law, is the part which relates to collective activity, e.g.: industrial action, admission to and expulsion from trade unions.

9. **Environmental law** is a complex body of statutes, regulations and cases that operates to control the interaction of humanity and the natural environment. These norms may be divided into two major subdivisions: (a) pollution control and remediation, (b) resource conservation and management.

10. **Family law** is an area of the law that deals with family-related matters and domestic relations including:

- the nature of marriage;
- issues arising from marriage, including marital property, child custody, guardianship and adoption;
- the termination of the relationship and matters associated with it: e.g. divorce, property settlements, child visitation and alimony.

11. **Insurance law** pertains to problems arising under any kind of insurance contract, such as life insurance, car insurance and disability insurance.

12. **Law of evidence** governs the use of testimony and exhibits or other documentary material which is admissible in a judicial or administrative proceeding.

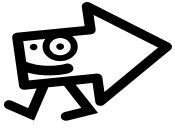
13. **Media law** pertains to the print and broadcast media, include such items as libel, privacy,  censorship, access to government information and court records, licensing of radio and television stations.

14. **Property law** is the area of law that governs the various forms of ownership in real (immovable) property and in personal (movable) property. Thus it governs valuable things that people call 'theirs'.

**Intellectual Property law** aims at safeguarding creators and other producers of intellectual goods and services. Its norms and procedures encompass copyrights, trademarks, trade secrets and patents.

15. **Tax law** covers the issues related to national and local taxation of such items as income, personal property, business profits, real estate, and sales transactions.

16. **Tort law (Personal Injury law)** pertains to any injury to a person or business that is directly caused by the intentional or negligent actions of another.



### 3.3. LEXIS

utilize - использовать, употреблять

law books - юридическая литература, кодексы

background or color – происхождение или цвет кожи

principal and agent - доверитель и доверенный, принципал и его агент

borrower and lender - ссудополучатель и ссудодатель

wholesaler and retailer - оптовик и розничный торговец

mortgagor and mortgagee - должник по закладной (ипотеке) и кредитор по залогу

carriage – перевозка, стоимость перевозки; провоз

bill of lading - транспортная накладная, коносамент

bill of exchange - переводный вексель

consumer protection - охрана прав потребителей, защита потребителей

business – зд. предприятие, фирма, компания

be an issue – иметь принципиальное значение

enforceable - имеющий исковую силу; обеспеченный правовой санкцией

discharge – исполнять, выполнять, осуществлять (обязанности по договору); прекращать (обязательство); освобождать от обязательств

cancel - аннулировать, отменять; отказываться

partnership - товарищество, партнерство (некорпорированная фирма, которой управляют несколько компаньонов)

business entity – предприятие

outside parties – зд. лица, не являющиеся членами/работниками фирмы (компании, предприятия)

restrictions - ограничения

competency testing – проверка обученности

employment law - трудовое право, закон о занятости

employment - работа по найму, личный наём

unfair dismissal - несправедливое увольнение

industrial action - забастовочное движение

admission to - приём в, поступление в

expulsion – исключение

trade union - профсоюз, объединение профессиональных союзов

environmental law - закон по охране окружающей среды, экологическое законодательство

interaction - взаимодействие; взаимосвязь

pollution - загрязнение (окружающей среды)

remediation - рекультивация земель

resource conservation - охрана природных ресурсов

domestic relations - семейные отношения

marriage - брак, супружество; замужество; женитьба  
marital property – имущество супругов  
child custody – содержание и забота о ребенке  
guardianship - опека; попечительство  
adoption - усыновление, удочерение  
termination - прекращение; окончание  
divorce - развод, расторжение брака  
property settlement – урегулирование имущественных споров  
child visitation - посещение ребёнка, оставленного судом у одного из супругов, другим супругом  
alimony - алименты; содержание  
insurance law - страховое право  
disability insurance - страхование на случай потери трудоспособности  
law of evidence - доказательственное право  
testimony - свидетельское показание (показание, данное в устной или письменной форме под присягой или скреплённое торжественной декларацией)  
admissible - возможный, допустимый, приемлемый  
exhibits - вещественные доказательства  
media law – законодательство о СМИ  
libel - клевета (в печати), диффамация  
privacy - частная жизнь, неприкосновенность частной жизни  
censorship - цензура (государственный надзор за печатью и средствами массовой информации)  
access to - доступ к  
court records - материалы судебного заседания  
real property - недвижимое имущество, «реальное» (в отличие от «персонального») имущество  
personal property - движимое имущество, «персональное» (в отличие от «реального») имущество; личное имущество  
safeguard - защищать; гарантировать; охранять  
copyrights - авторские права  
trade secrets - секреты производства, засекреченная технология, коммерческая тайна  
tax - государственный налог  
taxation - налогообложение; взимание налога  
income - (годовой) доход; заработок  
business profits - прибыли предприятия  
real estate - недвижимая собственность  
tort law - деликтное право, закон о гражданских правонарушениях  
intentional - намеренный, преднамеренный, умышленный  
negligent - халатный, беспечный; небрежный



### 3.4. QUESTIONS

1. What does the civil law cover?
2. What are the main sub-divisions of civil law?
3. What branch of civil law defines whether written and oral agreements are enforceable or not?
4. What matters are regulated by family law?
5. What is the aim of Intellectual Property law?
6. Give examples of consumer protection laws?
7. Which part of labour law deals with industrial actions?
8. Are teachers' rights and responsibilities regulated by norms of Civil Rights law?



### 3.5. AGREE OR DISAGREE

1. The law of business association is an equivalent to industrial law.
2. Intellectual Property law deals with various forms of ownership in real and personal property.
3. Commercial law specifies how companies, corporations, partnerships and other business organizations are formed.
4. The nature of marriage is defined by contract law.
5. Personal injury law clarifies what materials are admissible as evidence in a judicial or administrative proceeding.
6. The issues related to national and local taxation of sales transactions are regulated by commercial law.



### 3.6. SAY WHAT YOU KNOW about the following subdivisions of Civil Law:

- Computer laws;
- Cyberlaw;
- Elder laws;
- Health laws;
- Prison laws;
- Vehicle laws.



### 3.7. SCANNING



## **Civil Procedure**

1. Civil procedure concerns a wide range of issues which can be analyzed in the following sequence: jurisdiction; venue; pleading; parties; *discovery*; trial and *post-trial*.

2. **Jurisdiction** is the power or authority that a court has to hear a particular case. When considering the question of jurisdiction, one of the first points that must be determined is whether the case is *in*



*rem* or *in personam* action. An *in rem action* is a lawsuit that is directed against property rather than against a particular person. An *in personam action* is a lawsuit in which the plaintiff seeks damages or other *relief* against a specific person or *entity*.

3. **Venue** is a *statutory limitation* on the geographical location of litigation to prevent a plaintiff from suing where it would be *burdensome* for the defendant to appear and defend. Even when jurisdiction and venue are *proper*, courts may *decline* to exercise jurisdiction on the ground that the location the plaintiff selected for the case is grossly inconvenient.

4. The essential parts of the **complaint** are: the caption, jurisdictional allegations, body, prayer for relief, and subscription.

(i) *Caption* must set forth:

- the name of the court;
- the number assigned to the action (stamped by the clerk when the action is filed);
- a *designation* of the pleading (e.g., "Complaint for Damages"); and
- the names of the parties.

(ii) *Jurisdictional allegations* give grounds upon which the *subject matter* jurisdiction of the court is *invoked*.

(iii) *Body* is a part of complaint which contains a statement of the facts upon which recovery is *sought*.

(iv) *Prayer for relief* is a statement of the relief sought.

(v) *Subscription*: The complaint must be signed by the *lawyer* or by the party himself, where he is acting as his own counsel.

5. **Stages of jury trial:**

- *opening statements* of plaintiff and defendant;
- presentation of direct evidence by plaintiff, with *cross-examination* of each witness by defendant, etc.;
- presentation of direct evidence by the defendant, with cross-examination, etc.;
- presentation of *rebuttal evidence* by plaintiff and defendant;
- arguments of plaintiff and defendant to jury;
- final *closing argument* of plaintiff to jury;
- instructions to jury by judge;
- verdict of jury;
- *adjudication*.

6. Adjudication is usually in the form of the following **remedies:**

(i) Damages are an order from the court that an amount of money must be paid to the claimant. This is called an *award of damages*. There are different types of damages awarded by the civil courts;

- *Special Damages*: this is the name for damages which can be calculated specifically;

- General Damages: these are for things which can't be easily calculated. This may include an amount for pain and suffering and also for loss of future earnings.
- Exemplary Damages (or punitive damages): these are damages which are intended to punish the defendant and not merely to compensate the claimant.

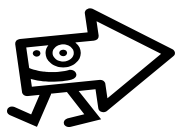
(ii) An Injunction may be awarded by the judge where damages would not be an appropriate remedy. It is an order by the court to stop doing something.

(iii) Rectification is an order from the court that a document should be altered to reflect the parties' true intentions. The court will only grant this remedy where it is satisfied that a mistake was made in drawing up the document so that it is no longer a true version of what the parties originally agreed.

(iv) Specific Performance is only used in contract law. It is an order of the court to do something if it is envisaged by the contract itself.

(v) Rescission is also only available in contract cases. The aim is to return the parties to the dispute as far as possible to their pre-contractual position.

7. An **appeal** is the normal procedure for obtaining review by a higher court. The function of the appeal is to assure that the trial has been conducted in a lawful manner and that judgments conform to the law. An appeal normally does not involve a retrial of the case, but is limited to a consideration of the rulings by the lower court in light of the record on which those rulings were made.



### 3.8. LEXIS

discovery - предоставление документов суду

post-trial - разбирательство после рассмотрения дела судом первой инстанции

*in rem* action - вещный иск

*in personam* action - иск в отношении конкретного лица

seek relief - искать судебной защиты, обращаться за защитой в суд

entity - организация-субъект права, юридическое лицо, самостоятельная правовая единица

statutory limitation - соответствующий закону, предусмотриваемый законом, предписанный законом

burdensome - обременительный; тягостный

proper - правильный; должный; надлежащий, соответствующий, уместный

decline - отклонять, отказывать

caption - заголовок судебного документа, заголовок

designation - обозначение, наименование, маркировка

jurisdictional allegation - относящееся к юрисдикции утверждение, заявление

invoke - ссылаться на что-л.; требовать применения чего-л.; применять (норму, статью, оговорку, прецедент)

subject matter - содержание, предмет, существо, предмет изучения

body - главная, основная часть (документа), текстовый блок; текстовая часть

sought - искомый, желаемый, необходимый, запрашиваемый

prayer for relief - прошение о предоставлении судебной защиты; ходатайство об удовлетворении требования

subscription – подпись, подписание

lawyer - юрист; адвокат; консультант по вопросам права

jury trial - суд присяжных, судебное разбирательство с участием присяжных заседателей

opening statement - вступительная речь

cross-examination - перекрёстный допрос (свидетеля противной стороны)

rebuttal evidence - контрдоказательство, опровергающее доказательство

closing argument - решающий довод, заключительное слово

adjudication - разрешение дела, вынесение судебного решения; судебное решение или приговор

remedy - средство защиты права, средство судебной защиты

award of damages - решение суда о возмещении убытков

special damages - реальные убытки, определяемые особыми обстоятельствами дела

general damages - общий ущерб; генеральные убытки (являющиеся необходимым прямым следствием вреда безотносительно к особым обстоятельствам дела)

exemplary damages - денежное возмещение в виде наказания ответчика для примера

injunction - судебный запрет

rectification - внесение исправления

specific performance - исполнение договора в натуре, реальное исполнение

rescission - аннулирование, расторжение, прекращение

retrial - новое слушание дела, повторное слушание дела; повторное расследование

ruling - постановление, решение (суда, председателя собрания)



### 3.9. QUESTIONS

1. What do they refer to as “civil procedure”?
2. What do they understand by “jurisdiction”?
3. What is “venue”?

4. What are the essential parts of the complaint?
5. Can you enumerate the stages of jury trial?
6. Who instructs jurors at the trial?
7. What remedies are available in civil litigation?
8. What do they call the normal procedure for obtaining review by a higher court? What functions does it have?



### **3.10. AGREE OR DISAGREE**

1. An *in rem* action is a lawsuit that is directed against a particular person rather than against property.
2. When jurisdiction and venue are proper, courts may never decline to exercise jurisdiction.
3. An appeal normally involves a retrial of the case.
4. A jury trial as a rule begins with closing arguments of parties.
5. A designation of the pleading is defined in a body of complaint.



### **3.11. SAY WHAT YOU KNOW** about such constituents of civil proceedings as:

- subpoena
- counterclaim
- objection
- cross-examination of witnesses
- brief on appeal



### **3.12. DETERMINE** which of the following situations are substantive and which are procedural issues:

1. Joyce sues Mishael for injuries received in an automobile accident. Mishael maintains that Joyce filed suit in the wrong court entirely.
2. Maxwell and Franco are brothers. Maxwell is sued, but he claims that the summons in the suit was given to Franco. Therefore, Maxwell maintains that since he never properly received the summons, he should not have to answer the suit against him.
3. Margo and Clay are involved in a breach of contract dispute. Margo alleges that Clay was obligated by the contract to paint her house yellow. In fact, Clay painted the house purple.



### **3.13. DEBATES**

The state legislature of Texas, United States, enacts a rule of procedure that requires that all petitions for dissolution of marriage be filed in the court of the county where the petitioner is domiciled. This is an example of a rule of procedure that applies to the entire jurisdiction (the entire state). The county court of Weir County (the same state) enacts a local rule that requires peti-

tions for divorce to be filed only on Mondays with the Clerk of the Court, Domestic Relations Division. This local rule is created by the county court and would apply in no other county in the state.

### Points for Discussion

1. Why are local rules necessary?
2. Wouldn't it be easier to have completely uniform rules for an entire jurisdiction?



**3.14. EXAMINE** the following statements and identify at what stage of trial each would occur:

1. "Ladies and gentlemen of the jury, it is our belief that the evidence you will see today will convince you by a preponderance that the defendant is not responsible for the losses of the plaintiff as alleged."

2. "Mr. Smith, as a juror do you feel you could put aside your personal feelings about drunk drivers and consider the defendant as innocent until proven responsible for the accident in which the plaintiff's property was harmed?"

3. "Ms. Johnson, isn't it true that you had been drinking yourself on the night you claimed to have witnessed the accident involving the defendant?"

4. "It is abundantly clear from the evidence that the plaintiff's damage resulted not from the defendant's actions but rather, from the plaintiff's own contributory negligence in driving at a speed too fast for conditions after working for a continuous eighteen hours at her job."



**3.15. CREATE** a detailed chart that demonstrates each step of court procedure from the time a lawsuit is filed up to the appeal.

### 3.16. KEY WORDS

action  
appeal  
closing argument  
civil procedure  
commercial law  
company law  
complaint  
consumer law  
contract  
damages

law of evidence  
liability  
litigation  
media law  
obligation  
opening statement  
ownership  
party  
plaintiff  
pleading

defendant  
education law  
environmental law  
evidence  
exemplary damages  
family law  
general damages  
*in personam* action  
*in rem* action  
injunction  
injury  
insurance law  
issue  
intellectual property law  
jurisdiction  
jury  
labour law  
law of contracts

proof  
property law  
rebuttal evidence  
relationship  
remedy  
responsibility  
review  
special damages  
specific performance  
suit  
tax law  
to seek damages  
to sue  
tort law  
transaction  
trial  
venue  
will



**3.16. MAKE A REPORT** on the topic “Civil Law”, paying attention to the following points in your speech:

- nature of civil law;
- branches of civil law;
- civil trial;
- remedies in civil litigation.

## Unit 4. Law of Property



**4.1. BEFORE READING** learn the following words and phrases which are essential on the topic:

**estate** - 1) имущество; собственность 2) вещно-правовой титул, право вещного характера, вещно-правовой интерес; имущественный интерес в недвижимости

**estate for years** - 1) владение имуществом в течение определённого срока, аренда на срок, 2) срочное арендное право

**fee simple** = freehold - безусловное право собственности на недвижимость, неограниченное право собственности

**intangible property** - 1) неосязаемая собственность 2) нематериальные активы (напр. репутация фирмы) 3) нематериальное имущество, имущество в правах

**interest in property** - вещное имущественное право, право в имуществе

**leasehold** - 1) лизгольд, пользование на правах аренды; наем, 2) право использования арендованной собственности 3) арендованное имущество, арендованная собственность

**life estate** - 1) имущество, находящееся в пожизненном владении, 2) пожизненное право на недвижимое имущество

**personal property** = personal assets, personal wealth, personalty, personal estate, personal goods, movable property, movables, goods and chattels - индивидуальная [личная] собственность; движимое имущество, движимость (различные материальные и нематериальные активы, которые не относятся к недвижимому имуществу)

**possess** - владеть, иметь, обладать, располагать (какими-л. материальными объектами)

**real property** = realty, real asset, landed property, immovables, immovable property, real estate - недвижимое имущество, недвижимость, недвижимая собственность (имущество, использование которого по назначению и без ущерба его характеристикам исключает его перемещение: здания, сооружения, земельные участки и иное имущество, прикрепленное к земле и связанное с ней)

**tangible property** - 1) осязаемая собственность, 2) материальное имущество, осязаемое имущество, имущество в вещах

**title** - правовой титул; право собственности; право на имущество; основание права на имущество; документ о правовом титуле

## 4.2. SCANNING



### **Real Property**

1. The word 'property' has several meanings, and in law we must be careful to distinguish between two of them:

(i) Property may mean the thing or things capable of ownership. In this sense the word includes not only physical things such as a pen, desk, watch, and land, but also non-physical things such as patent rights, copyrights, debts, etc. This is the popular sense of the term 'property'.

(ii) Property may mean ownership. Thus, we may say in law that 'Mr. Star has the property in a watch', or in other words, 'Mr. Star owns a watch'. Both statements mean the same. In a sale of goods where, for example, a student buys a pen, the shop assistant hands the pen to the buyer, and, at the same time, passes 'the property in the goods' (i.e. the ownership) to the buyer by delivery on the sale.

2. On the whole there are two main types of property:

(i) real property, which is land, the buildings, trees, or other items

attached to the land, and the rights of land ownership and use; and

(ii) personal property, which is all other property, tangible or intangible, except real property.

3. Real property is a legal term encompassing real estate itself and ownership interests in real estate. These interests in property are classified into:

- **Fee simple** (or freehold) is the most common interest or right in real estate and provides the owner the right to use the real estate for any lawful purpose and sell the interest when and to whom the owner wishes.

- **Life estate** is an interest in immovable property which is granted to a life tenant until that person dies. During the life estate, the life tenant has the right to use the real estate for any lawful purpose. The interest terminates upon the death of the life tenant.

- **Estate for years** is similar to a life estate but term is a specified number of years.

- **Leasehold** is the right to possess and use immovable property pursuant to the terms of a lease.

- **Concurrent tenancy** (or co-tenancy) indicates the ownership of an interest in immovable property by more than one party. Rights of any single party may be limited in various ways depending on the jurisdiction and type of concurrency.

4. Real property is not just the ownership of property and buildings - it includes many legal relationships between owners of immovable property that are purely conceptual such as the easement, where a neighboring property may have some right on your property or the right to pass over a property.

5. Whereas real property is essential for industry or other activity requiring a lot of fixed physical capital, economics is very concerned with real property and rules regarding its valuation and disposition. In economic terms, real property consists of some natural capital (or land, including the surface, whatever is attached to the surface such as trees, whatever is beneath the surface, such as minerals, and the area above the surface, i.e., the sky.), and infrastructural capital (the buildings, roads, bridges, power and water lines, and other improvements necessary to make immovable property useful for some human purpose).

6. Methods of acquiring title to real property:

- **By transfer.** Without question, the most common method of acquiring property is by transfer. There are three basic types of property transfers: (1) sale and purchase, (2) gift, and (3) court action (or involuntary transfer).

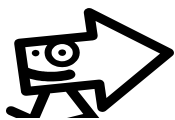


▪ **By accession.** You may acquire title to property that is added to your existing real estate. This process is called *accession*. Examples include accretion and addition of fixtures.

▪ **By will.** A will is a legal instrument by which a person over the age of 18 and of sound mind disposes of property upon his or her death.

▪ **By succession.** When a deceased person leaves no will, the law provides for the disposition of his or her property.

▪ **By occupancy.** Real property or the use of real property can be also gained through (1) abandonment and (2) adverse possession.



### 4.3. LEXIS

capable - допускающий (что-л.), поддающийся (чему-л.), способный

property in the goods - право собственности на товар

life tenant - пожизненный землевладелец; человек, владеющий определенной долей доходов с владений недвижимостью только на время своей жизни

terminate - 1) прекращать (напр. действие, использование), завершать, 2) заканчиваться, завершаться (о времени, о сроках)

lease - аренда, сдача внаем; арендный договор, договор об аренде; срок аренды

concurrent tenancy - совместное владение недвижимостью

jurisdiction - территория в подведомственности органа власти

concurrency - одновременное (параллельное) владение

purely conceptual - исключительно воображаемый, чисто теоретический, полностью умозрительный

easement - сервитут (в гражданском праве право ограниченного пользования чужим земельным участком)

pass over - переходить через, пересекать

economics - экономика, экономическая наука, политическая экономия, хозяйственная жизнь

valuation - оценка, определение стоимости [ценности]

disposition - нахождение в чем-л. распоряжении, возможность воспользоваться чем-л., управление чем-л., передача

natural capital - природный капитал, физический капитал естественного происхождения (земля и природные богатства)

infrastructural capital - капитал, относящийся к инфраструктуре

improvements - внесение конструктивных улучшений, модернизация, элементы благоустройства

acquire title - приобретать право собственности

transfer - передача (имущества, права и т. п.); цессия; трансферт

court action - решение суда

accession - увеличение (имущества), присоединение, дополнение

accretion – естественное приращение недвижимости (например наращение суши наносами)

fixtures - недвижимый инвентарь (неотделимый от здания или земли и юридически являющийся частью их)

will – завещание

disposes of - распоряжаться имуществом

succession - правопреемство, порядок наследования, наследственное право

deceased person - умершее лицо

occupancy – завладение

abandonment - отказ (от права): отказ от собственности без указания наследника

adverse possession - незаконное владение; владение, основанное на утверждении правового титула вопреки притязанию другого лица



#### 4.4. QUESTIONS

1. How does law define the notion of “property”?
2. What are the main types of property?
3. What does the term “real property” encompass?
4. What are the economic aspects of real property?
5. What types of ownership interests in real estate do you know?
6. How a person may acquire title to real property?



#### 4.5. AGREE OR DISAGREE

1. Real property is not just the ownership of property and buildings.
2. Fee simple or freehold is the least common interest or right in real estate.
3. A life estate is the same as an estate for years.
4. The title to real property may be acquired only by succession.
5. The ownership of an interest in immovable property by more than one party is impossible.



4.6. SAY WHAT YOU KNOW about the types of real estate ownership interests and methods of acquiring title to real property in Russia.



#### 4.7. SKIMMING

### **Space Property Rights Discussion**

The global space industry is expanding in directions unanticipated only a decade ago. Entrepreneurial space companies are changing the entire focus of commercial space. An industry once li-

mitted to satellite telecommunications is now seeing huge private sector investments in space transportation, personal (tourism) space-flight, Earth-orbit logistics, and resource recovery.

As commercialization of space expands, market opportunities and profitability will be shaped by additions and changes in laws that govern every aspect of space. This will include patents, real property rights, mineral rights, and tax incentives for space entrepreneurs. Resource appropriation and real property rights are two of the most controversial issues in international space law.

The law which governs property rights and resource appropriation is the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, commonly known as the Outer Space Treaty. This treaty entered into force with respect to the United States on October 10, 1967, and a total of 98 nations are now party to the Agreement.

While the Outer Space Treaty does not directly address the issues of property rights and resource appropriation, Article I says that outer space shall be free for exploration and use (emphasis added). This provision is relevant to the issue of resource appropriation. Article II of the treaty prohibits “national appropriation.” This provision is relevant to the issue of property rights.

Most space lawyers agree that the intent and meaning of Article II is to prohibit national control of territory or territorial sovereignty. Virtually all space lawyers agree that this provision prevents parties to the treaty from granting or recognizing titles to territory.

This author and others have noted that Article II of the Outer Space Treaty does not prohibit “private appropriation.” Because private appropriation is not prohibited, and because Article I says that outer space is free for “use,” many lawyers believe that commercial mining of space resources is legal under the treaty. The analogy that space lawyers most often cite on this point is commercial fishing in international waters: although no one owns the oceans, individuals and corporations can catch seafood and sell it for a profit.

**TASK:** What do you think about the issue? Substantiate your point of view.



#### 4.8. SCANNING

### **Personal Property**

1. In the civil law systems personal property is often called movable property or movables - any property that can be moved from one location to another. In the common law systems personal property may also be called chattels. Personal property may be

classified in a variety of ways, such as money, negotiable instruments, securities, goods, and intangible assets including choses in action. Certain objects that are a part of real estate may become personal property when they are removed from the land, such as cut timber or mined ore.

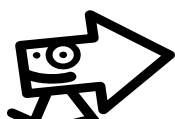
2. Personal property can be tangible or intangible. **Tangible personal property** *is subject* to physical possession. It can include almost anything that occupies space and is movable (i.e., it is not attached to real property or land), touched or felt. These generally include items such as furniture, clothing, jewellery, art, writings, or household goods.

3. **Intangible personal property** consists of rights in something that lacks physical substance. Examples include contracts, stocks, bonds, computer software (programs), employment, utility services (telephone, electricity, etc.), and intellectual property (copyrights, patents, and trademarks).

4. For instance, a written agreement evinces a contract, but the rights under the contract are the important property interest. Likewise, it is not the stock certificate, the computer disk, or the certificate of copyright registration that is the key property interest; these are evidence of property, but the property itself is not capable of physical possession.

5. Acquiring title to personal property:

- contracts, sales of goods, and transfers of commercial paper;
- gifts as a voluntary transfer of property from its owner (donor) to another person (donee) without any compensation for the donor;
- accession - an addition to the value of personal property, by labor, materials and/or natural process (e.g. growing fruit or adding an air conditioner to an automobile);
- possession - if personal property is lost, mislaid, or abandoned, or clearly had no prior owner, a person may obtain title simply by taking possession of it;
- creation - a method of gaining title to personal property by invention, art, or other intellectual endeavor (e.g., creating a painting, writing a book, knitting a sweater, developing a computer program).



#### 4.9. LEXIS

civil law system - континентальная правовая система,  
римская/цивильная система права

common law system - система, основанная на об-  
щем/англо-саксонском праве

chattels - движимое имущество, неземельная собственность

negotiable instruments - оборотные кредитно-денежные документы

securities - ценные бумаги  
 chose in action - 1) имущество в требованиях; нематериальное имущество, на которое может быть заявлена претензия 2) право требования; право, могущее быть основанием для иска  
 cut timber - лесоматериалы; строевой лес; древесина  
 mined ore - добытая руда  
 be subject - подчиняться, зависеть, обуславливаться, быть подверженным  
 physical substance - материальное состояние, физическая форма, вещественное содержание  
 stocks - 1) акционерный капитал (капитал, привлеченный путем выпуска и размещения акций), 2) акции; пакет акций; 3) (долговые) фонды; (долговые) ценные бумаги  
 bonds - облигация; гарантия (выполнения обязательств), поручительство; гарантийное обязательство  
 employment - наем, прием на работу, трудоустройство  
 utility services - коммунальное обслуживание  
 evince - доказывать, проявлять, показывать, указывать  
 stock certificate - свидетельство на долю участия в акционерном капитале, сертификат акции, акционерный сертификат  
 key - основной, ключевой; важнейший, ведущий, главный  
 capable - 1) могущий, способный 2) правоспособный, дееспособный 3) поддающийся  
 acquiring title - приобретение права собственности  
 donor - даритель, податель, жертвующий, жертвователь  
 donee - лицо, получающее дар, подарок  
 possession - добросовестное владение  
 mislaid - оставленное не в нужном месте  
 abandoned - оставленный, брошенный, покинутый  
 intellectual endeavor - интеллектуальный труд, умственные усилия

#### **4.10. QUESTIONS**



1. What are the two types of personal property?
2. How can title to personal property be acquired?
3. What personal property is called “tangible”?
4. What property is “intangible” according to the law? Give the examples.
5. Explain the differences between creation and accession as methods of gaining title to personal property.

#### **4.11. AGREE OR DISAGREE**



1. All personal property is subject to physical possession.
2. Tangible personal property can include anything that takes up space and is movable.

3. Stocks and bonds are examples of intangible property.
4. Utility services cannot be a type of property.
5. No object that is a part of real estate may become personal property.
6. Personal property is not capable of physical possession.



**4.12. SAY WHAT YOU KNOW** about:

- the distinction between private and personal property;
- the difference between mislaid and abandoned property;
- the distinction between tangible and intangible property.



**4.13. DEBATES**

A recently issued draft regulation allowing local governments in Sichuan province (China) to take over civilians' private property for use in dealing with emergencies has triggered a heated discussion. Some think it is OK if it is for emergencies or for the public's interest, while others are concerned over possible infringement of personal rights.

Pros - 18%	Cons - 82%
Yes. For Sichuan province where natural disasters are a frequent occurrence, the regulation is beneficial to the public and can help the government deal with emergencies efficiently.	No. The Constitution provides that the legitimate property of citizens is protected. The regulation would result in abuse of power and possible infringement of personal property rights.

Do you support the regulation that personal property can be confiscated in dealing with emergencies? Could such a regulation be possible in your jurisdiction?



**4.14. SCANNING**

**Protection of Intellectual Property Rights in Britain**

1. "Intellectual property" (IP) is an original work *fixed in a tangible medium of expression*. IP refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce. IP law creates property rights in original creations to ensure that their *originators* are able to control their use and receive appropriate financial *reward*. It embraces patents for the protection of inventions, registered designs, trademarks, trade secrets, and copyright for the protection of original literary, dramatic, musical or artistic works, films, video and sound *recordings*, *broadcasts* and *computer software*.

## Copyright

2. Copyright is a protection automatically conferred in Britain on certain types of original and creative materials. It gives legal rights to the producers of such materials, enabling them to control how their works may be exploited. Broadly speaking, copyright covers copying, reproducing, adapting, performing and broadcasting.

The 1988 Copyright, Designs and Patents Act defines copyright as a 'property right' which means that it may be exploited, used, bought and sold - or 'assigned' - like any other property.

3. Copyright owners have the exclusive right to perform certain "restricted acts":

- copying the work,
- issuing copies to the public,
- performing, playing or showing the work in public,
- broadcasting the work or transmitting it by cable,
- making an adaptation or performing any of the other restricted acts with an adaptation,
- authorising the rental of material such as video cassettes and receiving a royalty for the rental.

4. It is not necessary to register for copyright protection. However, for record purposes, Stationers' Hall in London maintains a register in which copyright owners may apply to have their works listed for a period of seven years.

5. Copyright covers works in three main categories:

- original literary, dramatic, musical or artistic works, including photographs and architecture;
- sound and video recordings, films, broadcasts or cable programmes, and electronic databases,
- the typographical arrangement of a published work.

6. A 'literary' work need have no aesthetic value for copyright purposes but should simply be the result of independent intellectual effort. Thus the term can cover such materials as technical descriptions and drawings, railway timetables and examination papers. And since the 1988 Act, it also includes computer software.

7. Copyright Ownership. In most cases, the first owner of a copyright is the author or originator of a work, and this includes not only writers and composers but also record and film producers, broadcasters and publishers.

Copyright holders may use their rights to prevent exploitation of their work by others or may licence them to use it. In addition, they may sell their rights like any other piece of property.

Employers retain the rights to any appropriate works produced by their employees in the course of their employment unless special ar-

rangements have been made. So, for example, in the main, copyright in articles written by journalists is held by the owners of their newspapers.

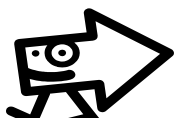
In the case of published material generally, the author is usually the first copyright owner of the text whereas the publisher holds the copyright on the actual '*layout*' of the publication.

8. The Duration of Copyright. For artistic, musical and literary works, copyright lasts throughout the author's life and for 50 years after death.

Copyright on films and sound recordings extends for 50 years after the date of release, and for broadcast and cable programmes for 50 years from the date of first showing. Typographical copyright lasts for 25 years from publication.

9. Exceptions to Copyright. Despite the protection which copyright affords to its owners, there are occasions when it does not apply and materials may be used by others without obtaining permission to do so. In general, this involves the reproduction or quotation of extracts for research, study, criticism, review and news reporting. In addition, copyright considerations should not hinder education or the operation of libraries or public administration. The 1988 Act also provided for exceptions in the case of 'time-shift' recording of radio and television programmes in the home.

9. Exercising Copyright. Copyright owners may licence others to use that copyright. This may be in terms of some or all of the 'restricted acts' and it may be 'exclusive', that is such that not even the first owner will be able to exercise the relevant rights.



#### 4.15. LEXIS

fixed in a tangible medium of expression – закреплённый в материальной форме, воплощенный в материальном объекте

reward – вознаграждение, награждение, поощрение

recording - звукозапись, видеозапись

broadcast - радиопередача; радиовещание, телевизионная передача; ТВ-вещание

computer software - компьютерное программное обеспечение

exclusive right - исключительное, эксклюзивное право; прерогатива

issuing copies - издание материалов; выпуск экземпляров, копий

adaptation - приспособление, адаптация; переделка; усовершенствование, улучшение

rental - прокат, аренда

royalty - авторский гонорар; лицензионный платеж

Stationers' Hall - Стейшнерз-Холл, здание в Лондоне, где хранится список всех произведений, изданных в Великобритании



register - журнал, книга для записи, реестр, регистр; указатель  
 database - база данных (информация, определенным образом структурированная и классифицированная)  
 typographical arrangement - оформительская композиция, типографическая компоновка, внешний вид (изданного текста)  
 aesthetic value - эстетическая ценность, эстетическое значение  
 employer - наниматель, работодатель, хозяин  
 employee - (наемный) работник, сотрудник; служащий; рабочий  
 layout - макет, вёрстка; схема расположения; компоновка  
 exceptions to - исключение из, предусмотренное в законе изъятие  
 quotation of an extract - цитирование отрывка, ссылка на цитату  
 'time-shift' recording - запись отдельных эпизодов программы, запись программ со смещением времени и изменением компоновки передач  
 exercising – использование, осуществление (права), контроль  
 relevant - соответственный, соответствующий

#### **4.16. QUESTIONS**



1. What is the purpose of Intellectual property law?
2. What does Intellectual property law embrace?
3. What does copyright enable the producers of original and creative materials to do?
4. What are the “restricted acts” that copyright owners have the exclusive right to perform?
5. Which are the three main categories of works that copyright covers?
6. Who can be the first owner of a copyright?
7. How can copyright holders use their rights?
8. How do the author and the publisher usually share the copyright in the case of published material?
9. What is the duration of copyright? Is it the same for different types of works?
10. Can there be any exceptions to copyright?
11. Which body has jurisdiction to deal with disputes in all areas of copyright licencing?

#### **4.17. AGREE OR DISAGREE**



1. In Britain copyright is a protection automatically conferred on certain types of original and creative materials.
2. Adapting materials unlike copying them is not covered by copyright.
3. Stationers' Hall in London maintains a register in which copyright owners may apply to have their works listed for a period of seventy years.

4. Computer software is still not covered by copyright.
5. Copyright in newspaper articles written by journalists is held by the owners of their newspapers.
6. The 1968 Act provided for exceptions in the case of the recording of broadcasts by educational institutions.
7. There may be cases when different copyrights overlap.
8. It is not necessary to register for copyright protection.
9. A “literary” work need have no aesthetic value for copyright purposes but should simply be the result of independent intellectual effort.
10. Every state needs special rules for the copyright of Government publications.
11. The duration of copyright should be limited.



#### 4.18. SAY WHAT YOU KNOW about:

- piracy in the world;
- countries where sharing files without profit is legal;
- Russian law on the issue.



#### 4.19. DEBATES

Whether or not Internet intermediaries have liability for copyright infringement by users, and without the intermediaries' authorization, has been subject to debate and court cases in a number of countries. Liability of online intermediaries has been one of the earliest legal issues surrounding the internet.

What do you think of this problem?



#### 4.20. SCANNING



### **Patents**

1. Patents are granted to individuals and companies that can lay claim to an invention which is capable of *industrial manufacture* and which was not previously known in Britain or elsewhere. The granting of a patent gives the '*patentee*' a monopoly to make, use or sell the invention for a fixed period of time - which in Britain today is a maximum of 20 years from the date on which the patent application was first filed. In return for this monopoly, the patentee pays a *fee* to cover the costs of *processing* the patent and, more importantly, publicly *discloses* details of the invention.

2. Patents are administered by the *Patent Office*, which analyses *applications* to ensure that the right to a patent exists and publicly provides information on every patent granted. The Office is an executive agency of the Department of Trade and Industry.

## Design Right

3. An industrial design right protects the form of appearance, style or design of an industrial object. Protection is provided against the copying of original designs for five years after they have been initially marketed, although any person is entitled, as of right, to a licence to use the design during the following five years, and a right to remuneration is provided for during that period. However, unrestricted copying is permitted where there is no design freedom for either functional or aesthetic reasons, such as in the case of spare parts needed to keep equipment in good repair.

4. Design right is a full property right. But according to the 1988 Act certain designs are not registrable and protection is in effect provided only for truly aesthetic, 'stand-alone' designs which competitors do not need to copy in order to compete effectively.

## Trade and Service Marks

5. A trade mark (or brand) is a means of identification - a symbol, whether a word or device or a combination of the two - which enables traders to make their goods and services readily distinguishable from similar goods and services supplied by other traders. Fraudulent use of a trademark is a criminal offence which incurs substantial penalties.

Service marks are the same thing as trademarks except that they identify and distinguish services rather than products.

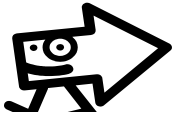
Not all brands can be registered, however - the criteria for registration being set by the Trade Marks Registry, which is part of the Patent Office.

## Trade Secrets

6. A trade secret (or "confidential information") is secret, non-public information concerning the commercial practices or proprietary knowledge of a business, public disclosure of which may sometimes be illegal. A trade secret is any formula, pattern, machine, process, database, method or operation used in the production of goods or services and known only to employees who need to know the secret to accomplish their work.

The protection of trade secrets covers the ideas themselves. It's the main distinction from copyright.

7. Patents, trademarks, service marks, trade secrets and design rights are sometimes collectively known as industrial property, as they are typically created and used for industrial or commercial purposes.



#### 4.21. LEXIS

industrial manufacture - промышленное производство, изготовление в промышленных масштабах

patentee - патентодержатель, владелец патента; лицо, имеющее право на получение патента

fee - комиссия, комиссионный сбор; плата за услуги, взнос

processing - изготовление, оформление, подготовка

disclose - раскрывать; объявлять; сообщать, разглашать (сведения)

Patent Office - Патентное ведомство

application - заявление, просьба, обращение, требование, заявка

remuneration - вознаграждение; компенсация; заработная плата

spare parts - запасные детали, запасные части

registrable - подлежащий регистрации, регистрируемый

stand-alone - выдающийся, особенный, непревзойденный

competitor - конкурент, соперник; участник рынка

device - 1) способ, средство 2) рисунок; эмблема, символ; девиз

distinguishable - различимый

fraudulent use - мошенническое использование

incur - нести, терпеть (расходы, убытки); подвергаться чему-л.

penalty - взыскание; санкция; штраф; наказание; санкция

proprietary - составляющий или характеризующий чью-л. собственность; частный

industrial property - промышленная собственность, промышленные права

#### 4.22. QUESTIONS



1. Which requirements should an invention meet to be granted a patent?
2. What rights does a patent give to the 'patentee'?
3. What does the patentee have to do in return for the monopoly to use his own invention?
4. Which body is responsible for administering patents? What are its functions?
5. Can there take place unrestricted copying of original designs? Which can be the case?
6. What is treated as industrial property?
7. Which body deals with setting the criteria for registration of trademarks?

#### 4.23. AGREE OR DISAGREE



1. Only individuals can be granted patents.

2. The granting of a patent gives the 'patentee' a monopoly for a fixed period of time - which in Britain today is 40 years.

3. The Patent Office is an executive agency of the Department of Commerce.
4. Protection is provided against the copying of original designs for seven years after they have been initially marketed.
5. Certain designs are not registrable.
6. Fraudulent use of a trade mark and possession of the offending goods incurs substantial penalties.
7. Any trade or service mark can be registered.



**4.24. SAY WHAT YOU KNOW** about:

- trademark/patent infringement cases;
- some unusual inventions;
- history of some famous inventions;
- history of some famous trademarks.



**4.25. MAKE UP** your own «list of top ten inventions» of all time. Explain your choice and discuss it with your group mates.

**4.26. KEY WORDS**

abandoned property	natural capital
accession	ownership interest
chose in action	patent
copyright	patentee
copyright owner	personal property
duration	possession
estate	property
estate for years	protection
exclusive right	real property
fee simple	registered design
infrastructural capital	reversion
intangible personal property	royalty
intellectual property	succession
interest in property	tangible personal property
lease	title to property
leasehold	to acquire title
licence	to be subject to
life estate	to possess
lost property	trade mark
mislaid property	trade secret



**4.27. MAKE A REPORT** on the topic “Law of Property”, paying attention to the following points in your speech:

- definition of property;

- real and personal property;
- ownership interests in real estate;
- acquisition of title to real property;
- acquisition of title to personal property;
- tangible and intangible personal property;
- intellectual property rights.

## Unit 5. Family Law



**5.1. BEFORE READING** learn the following words and phrases which are essential on the topic:

**adoption** - усыновление, удочерение

**alimony** - 1) алименты (регулярные платежи, производимые одним из бывших супругов в пользу другого бывшего супруга во время раздельного проживания или после официального развода) 2) содержание, помощь

**annulment** - постановление о признании брака недействительным

**child custody** – попечение, забота о ребенке

**decree of divorce** - судебное решение о разводе супругов

**divorce** - расторжение брака, развод | расторгать брак; разводиться

**family relationships** - семейные отношения

**file for divorce** – подавать документа на развод

**guardian** = custodian - опекун (назначается судом для малолетних или неспособных управлять имуществом)

**guardianship** - опека и попечительство

**infant** – малолетний, несовершеннолетний

**inheritance** - 1) наследование 2) наследство, наследие

**legal capacity** - правоспособность, дееспособность

**legal relationship** - 1) родство, признанное законом; 2) правовые отношения

**legitimation** - усыновление, узаконивание; легитимация

**marriage** - брак, супружество; замужество, женитьба; бракосочетание, свадьба; вступление в брак, заключение брака

**natural relationship** - кровное родство; фактическое родство

**parent** - родитель, отец, мать

**paternity** – отцовство, происхождение по отцу

**spouse** - один из супругов

**succession** - преемственность; наследование, порядок наследования, наследственное право

**will** - завещание



## 5.2. SCANNING

### **Marriage**

1. Family law is the term applied to the laws and rules regarding family relationships. Family law rules define not only the relationships between members of a family but also between a family and society as a whole. More than any other area of the law, family law reflects the values society shares regarding how people who are related should treat each other.

2. Family law rules see the family as a special social institution and clarify such issues as marriage and relationship planning, divorce, paternity, adoption, custody of and responsibility for children; protection from violence in the home. Norms of family law also prescribe the rights of succession to the property of a family member when they die.

3. Under Family law "marriage" is a social institution uniting men and women in special forms of mutual dependence, often for the purpose of founding and maintaining families. As far as children need undergo a long period of development before attaining maturity, the care of children during their years of relative helplessness is the chief incentive for the spouses. Marriage as a contract between a man and a woman has existed since ancient times. As a social practice it reflects the purposes, character, and customs of the society in which it is found.

4. Basically, there are three requirements of a valid marriage:

(i) that the requisite formalities are complied with: whether a religious or a civil ceremony is necessary;

(ii) that the parties have legal capacity to marry each other; for instance, one or both may be under lawful age, or be already married to a third person, or they may be within the prohibited degrees of relationship, thus such individuals are prevented from wedding;

(iii) that the parties freely and knowingly consent to do so.

5. If a marriage has been imperfectly constituted in law, it may be annulled; grounds for annulment include lack of capacity, no reality of consent by the parties, a vitiating defect in the marriage ceremony, or the subsequent discovery of such a "defect".

6. If married people wish to terminate their marriage relationship they both or any one of them should file for divorce. This can be accomplished through an uncontested divorce or a contested divorce. The last one may be of two kinds: no-fault divorce or a fault based divorce.

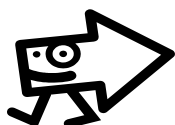
7. With "a no-fault divorce", the termination does not require proof of fault to be shown. Reasons for this type of divorce include incompatibility or irremediable breakdown of the marriage. The applica-

tion can be made by either party. With the support of a court system, the other spouse may be divorced against his or her will in this case.

8. In “a fault based divorce”, the grounds (reasons) for divorce are specific such as: adultery, habitual drunkenness, conviction of a felo-ny, unreasonable behaviour, cruel and inhuman treatment, insanity, desertion of at least two years, two years' separation where the divorce is by consent, and five years' separation.

9. The procedure is usually for one party to petition for divorce. A judge considers the evidence and, if the grounds for divorce are proven, the judge pronounces a decree nisi which is a provisional measure. Six weeks later the petitioner can apply for a decree absolute, which is the final measure. The decree absolute has to be issued by the court before either party can re-marry. A decree of divorce must be pronounced in open court.

10. Alimony is amount of money ordered by a court to be paid by one spouse to the other - usually by the husband to the wife - for some period, limited or indefinite, after a divorce. The traditional legal standard governing the amount of alimony was that which would allow the wife to live in the style to which she had become accustomed during the marriage. Under these circumstances, permanent support for the dependent spouse made sense - especially in a traditional society in which the husband earned the income and owned all family wealth and the wife was responsible for maintaining the home and rearing the children.



### 5.3. LEXIS

relationship planning – регулирование / планирование  
родственных отношений

violence - жестокость, насилие

right of succession - право наследования

values - ценности

share - разделять

treat - обращаться, относиться, вести себя по отношению к кому-л.

mutual dependence - взаимная зависимость

undergo - переносить, претерпевать

maturity - зрелость, совершеннолетие

valid - юридически действительный, имеющий силу; правомерный

requisite formalities - необходимые формальности

prohibited degrees of relationship - степени родства, при которых  
запрещается брак

wedding - вступление в брак, бракосочетание, женитьба

imperfectly constituted – не полностью соответствующий

annul - признавать недействительным

vitiating defect – дефект, лишаящий законной силы



subsequent discovery – более позднее выявление  
 terminate - прекращать действие  
 uncontested divorce - развод по обоюдному согласию  
 contested divorce – развод без согласия одного из супругов  
 no-fault divorce – развод без судебного обоснования причин  
 fault based divorce – развод на основании подтверждения веской  
 причины  
 incompatibility - несовместимость  
 irretrievable breakdown – непоправимый разрыв (отношений)  
 application - письменное ходатайство суду или судье  
 adultery - адюльтер, прелюбодеяние, нарушение супружеской вер-  
 ности, супружеская измена  
 habitual drunkenness - алкоголизм  
 felony - тяжкое уголовное преступление (фелония)  
 inhuman treatment - жестокое обращение  
 insanity - психическая болезнь; невменяемость  
 desertion - злонамеренное оставление одним супругом другого  
 separation - раздельное жительство супругов (фактическое пре-  
 кращение брака без юридического оформления)  
 decree nisi - условное решение суда; судебное постановление ,  
 вступающее в силу с определённого срока, если оно не отме-  
 нено до этого срока  
 petitioner - проситель; истец  
 decree absolute - решение суда, окончательное и безусловно всту-  
 пившее в силу  
 accustomed - привычный, привыкший  
 make sense - иметь смысл, быть понятным  
 earn the income - зарабатывать, приносить доход  
 rearing - воспитывание (детей)



#### **5.4. QUESTIONS**

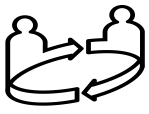
1. What do people refer to as “marriage”?
2. Are there any requirements of a valid marriage?
3. How can a marriage be dissolved?
4. What are the typical grounds for a court to dissolve a marriage?
5. What is the procedure for divorce?
6. What do they call the money ordered by a court to be paid by one spouse to the other?



#### **5.5. AGREE OR DISAGREE**

1. Divorce is possible only if both parties petition for it.
2. A *decree nisi* is a provisional measure.
3. A decree of divorce must be pronounced at the closed meeting of the court.

4. The period for which alimony is to be paid is always limited.
5. There are three main standards governing the amount of alimony.



### 5.6. DEBATES.

“Arranged marriages” are marriages which are negotiated primarily by the parents of the couple, rather than the couple themselves. There are proponents and opponents of this approach to creating new families:

Cons	Pros
<p>a) Arranging marriages is an insult to the very nature of marriage, which should be about creating a loving and lasting partnership and family.</p> <p>b) The practice of arranged marriage separates communities, helping to stop integration and encourage distrust between communities.</p>	<p>a) Arranged marriages are very much ‘real’ marriages. Vastly more marriages than not in human history would fall under any sensible definition of arrangement. More than that, an unusually small number of arranged marriages actually end in divorce.</p> <p>b) Arranged marriages do involve choice. The difference is merely that whole families are involved together in both considering the best options and in helping to achieve what is wanted.</p>

1. Should we say that there is a great difference between arranged and love marriages?
2. Describe advantages and disadvantages of these two approaches.



### 5.7. AGREE OR DISAGREE

1. The divorce industry is biased against men in favour of women.
2. The civil law system allows the rich to buy justice.
3. When civil law cases go to trial, both parties lose.
4. You should have a career established first and be financially stable before you even think about getting married.
5. It’s not against the law to slap your own spouse.
6. Men being injured by women is just as big a problem as women being injured by men.
7. Success in marriage does not come merely through finding the right mate, but through being the right mate.
8. A successful marriage requires falling in love many times, always with the same person.



## 5.8. SCANNING

### **Parent and Child**

1. Family law determines the legal rights and obligations of fathers or mothers to their children and of children to their parents. The legal relationship is distinguished from the natural relationship; for example, two persons may have a legal relationship of parent and child although there is no natural relationship, as in the case of an adopted child.

2. As a rule parents are the legal as well as natural guardians of their child. They have the right to name the child and are entitled to custody. As custodians, they can reasonably chastise the child, but for excessive punishment the parents are criminally liable for assault, or for homicide in case of death. Either parent has the right to custody of the children of the marriage, and in a divorce or separation the court can award custody to the parent best qualified and able to care for the children. Parents must provide for their children such necessities of life as food, clothing, shelter, education, and medical care; if they cannot or will not, the laws authorize intervention by designated authorities to ensure that children's needs are met.

3. Children who are physically or emotionally abused by their parents may be the subject of legal action in order to protect the children. Parents' rights to custody of their children may be limited or, in extreme cases, terminated because of failure to provide adequate care. Laws require a father to support his minor children if he is able to do so, whether or not he has ever been married to their mother. Failure to provide support may result in civil or criminal proceedings against him. If paternity has been admitted or established, laws permit children to inherit from their father's estate unless specifically excluded in his will.

4. Legitimation. Prior to legitimation, the child is said to be illegitimate. Once a child has been legitimated, he or she is entitled to all of the benefits from that father as he or she would if that man had been married to the child's mother at the time of the child's birth. The legal effect is that the legitimated child is treated as a lawful child. The father is responsible for providing support to the child and the child is entitled to inherit from the father.

5. Adoption. On adoption the child is deemed to be the legitimate child of its adoptive parents. The adopted child has the same rights of inheritance under wills, deeds and intestacies as natural children of the adopters.

A person is eligible for adoption at any age under 18, provided he or she is unmarried. In practice about 90 per cent of all adoptions are of children under 10.

Who may adopt? The applicant or one of the joint applicants for an adoption must (i) have attained the age of 25, or (ii) have attained the age of 21 and be a relative, e.g. grandparent, brother, sister, uncle or aunt, or (iii) be the mother or father of the infant, e.g. with an illegitimate child.

6. Guardianship is the relationship existing between an infant (known as a ward) and some person who has the right of control over him and of ensuring his maintenance, education, and welfare.

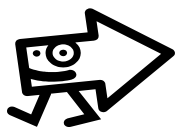
Such powers are, of course, normally exercised by parents who have a duty to provide care, protection, and control. Where, however, either or both parents are deceased, or unable or unwilling to exercise these powers and duties, the question of appointing a successor in the form of a guardian will arise. Every infant must have some adult to safeguard his interests.

7. Guardians may be appointed by:

a) a deed or will of a parent.

b) the court, where no guardian has been appointed by deed or will and the infant has no parent, guardian or other person exercising control over him.

Where an infant or minor has been made a ward of court (which may result where both parents are dead or divorced) all important decisions affecting the child, such as his upbringing, property, investments, etc. may only be made by authority of the court.



### 5.9. LEXIS

adopted child - приёмный ребёнок, усыновлённый ребёнок

custody - присмотр; опека; попечение

chastise - подвергнуть наказанию

excessive - чрезмерный, излишний

qualified - пригодный, подходящий (для чего-л.)

intervention - вмешательство; посредничество, соучастие

met - учтен, соблюден, удовлетворен

failure - невыполнение, неосуществление, несостоятельность

paternity - отцовство

inherit - наследовать; получать наследство

illegitimate - незаконный; неузаконенный; незаконнорождённый; внебрачный

adoptive parent = adopter - приёмный родитель, усыновитель

intestacy - отсутствие завещания; наследство, оставленное без завещания

eligible - имеющий право (в силу соответствия определенным требованиям); подходящий, приемлемый, годный, пригодный  
ward - лицо, находящееся под опекой  
maintenance – поддержка, содержание, уход  
deceased - умерший, скончавшийся, ушедший из жизни человек  
successor – правопреемник, наследник  
deed - документ, скрепленный печатью; документ с подписями и печатью  
ward of court - лицо, находящееся под опекой суда  
investments - затраты, расходы



### **5.10. QUESTIONS**

1. What does family law determine?
2. What rights can parents exercise to their children?
3. Which parent has the right to custody of the children of the marriage? Who is custody awarded to in a divorce or separation?
4. What must parents provide for their children?
5. May parents' rights to custody of their children be limited?
6. Do the rights of legitimated children differ very much from those legitimate or lawful children?
7. Who may adopt? Are there any requirements for those wishing to adopt a child?
8. What is “guardianship”?
9. When does the question of appointing a guardian arise?
10. Who can appoint a guardian?
11. When can an infant or minor be made a ward of court?



### **5.11. AGREE OR DISAGREE**

1. The legal relationship is the same as the natural relationship.
2. As a rule parents are the legal as well as natural guardians of their child.
3. Parents can chastise the child.
4. No laws may authorize intervention in the family by authorities.
5. Children may be the subject of legal action.
6. A father’s duty to support his minor children depends on whether or not he has ever been married to their mother.
7. The adopted child has the same rights of inheritance as natural children born in wedlock to the adopters.
8. A person is eligible for adoption at any age under 10.
9. All important decisions affecting the child, such as his upbringing, property, investments, etc. can be made by authority of the court.



**5.12. SAY WHAT YOU KNOW** about rules, tips or recommendations how to strengthen families and to maintain good relations between parents and their children. Write down a list of such tips. For instance:

1. Tell your child you love him every day - no matter his age.
2. Play with your children.
3. Let your children help you.
4. Eat meals as a family.
5. Respect your child's choices.



### **5.13. DEBATES**

1. If children behave badly, who's to blame: parents or children?

2. Spanking is one of the most controversial discipline methods. On one side of the debate are parents who believe it is all right to spank their children. On the other side are those who think that children should never be spanked. Somewhere in the middle are parents who believe that spanking should only be used in particular instances (e.g., when the child runs into the street). Whom do you support? Explain your choice.

### **5.14. KEY WORDS**

adopted child

adopter

adoption

alimony

child custody

contested divorce

decree absolute

decree nisi

divorce

family

family relationships

guardian

guardianship

husband

infant

inheritance

legal capacity

legal relationship

legitimation

marriage

mutual dependence

natural relationship

no-fault divorce

parent

paternity

right to custody of one's children

separation

spouse

succession

to attain maturity

to dissolve a marriage

to file for divorce

to re-marry

uncontested divorce

valid marriage

ward

wife



- 5.15. MAKE A REPORT** on the topic “Family Law”, paying attention to the following points in your speech:
- nature of family law;
  - marriage;
  - parent-child relationship;
  - termination of marriage relationship.

## Unit 6. Contract Law



**6.1. BEFORE READING** learn the following words and phrases which are essential on the topic:

**acceptance** - принятие (запроса); акцептование (стадия торгового договора: ответ лица, которому адресована оферта о ее принятии; согласие принять предлагаемые условия)

**breach of contract** - нарушение договора, невыполнение условий контракта

**capacity of the parties** - правоспособность сторон договора

**consideration** - встречное удовлетворение, компенсация, вознаграждение, возмещение, оплата (нечто ценное, предлагаемое одной стороной в обмен на определенное обещание или действие другой стороны)

**contracting party** - договаривающаяся сторона, контрагент, участник договора

**contractual relationship** - договорные отношения, контрактные отношения

**counteroffer** - встречное предложение, контрферта

**express agreement** - точно сформулированное соглашение, положительно выраженное соглашение

**implied agreement** - подразумеваемое соглашение; соглашение, выводимое из направленных на заключение договора действий; квазидоговор

**legally enforceable agreement** - соглашение, имеющее исковую силу; договор, могущий быть принудительно осуществленным в судебном порядке; соглашение, обеспеченное правовой санкцией

**mutual promises** - взаимные обязательства, обоюдные обещания

**offer** - оферта (предложение одного лица другому, сообщающее о желании заключить с ним договор)

**party to contract** - договаривающаяся сторона, контрагент

**specific performance** - реальное исполнение, исполнение в натуре

**subject matter** - содержание, предмет, существо, предмет договора

**terms of contract** - условия контракта, договорные условия, срок исполнения договора

**valid contract** - юридически действительный, имеющий силу; правомерный контракт; договор, достаточный с правовой точки зрения; неоспоримый контракт; надлежаще оформленный, надлежаще совершённый контракт

**void** - ничтожный; не имеющий юридической силы

**voidable** - оспоримый; могущий быть аннулированным, не обязательный к исполнению



## 6.2. SCANNING

### **Nature of Contracts**

1. Contract law is a foundation upon which many other areas of business law are built, such as activity of corporations and partnerships, employment, agency, commercial papers, and secured transactions. The law of contracts is a framework to ensure that lawful expectations are met or that remedies are provided.

2. A contract is a legally enforceable agreement, express or implied, which gives rise to certain rights and obligations. Thus in case of a breach of contract the injured party may go to court to sue for money damages, or for rescission, or for specific performance if money damages would not compensate for the breach. But these rights and obligations cannot arise except between the parties to the contract.

3. Most people make a number of contracts during each day. Every cab ride, purchase of a grocery item, use of a soft drink machine, or appointment with a doctor involves a contractual relationship. It does not matter that these contracts are oral, or are based on gestures or even on a course of conduct. Mere informality does not render a contract less binding. Though certain contracts shall not be enforceable unless they are in writing and are signed by the party to be charged; for example, contracts concerning real property.

4. There are four essential elements of a valid contract:

- i) capacity of the parties;
- ii) legality of subject matter;
- iii) consideration (something of value given in exchange for a promise);
- iv) mutual agreement (assent), meeting of the minds (a valid offer and acceptance) and intention of the parties to create legal relations.

Each of the four essential requirements must be met in the formation of a valid contract.

#### ▪ **Capacity of the Parties**



5. Under the law, only a person who is legally competent has the power to make a binding contract and can be held to any promises contained therein. Persons who may be considered to be legally incompetent include minors, insane persons, and, sometimes under specified circumstances, intoxicated persons.

▪ **Legality of Subject Matter**

6. If the subject matter of an agreement is not legal, the agreement is not enforceable in a court of law. In this respect, we do not use the expression "void" or "voidable"; the illegal agreement simply has no existence in contemplation of law. Generally, neither party has access to a court for the assistance of law with respect to any aspect of the agreement.

7. There are two reasons why the subject matter of a contract may be illegal: statute and public policy. Statutes are legislative acts; public policy is a judicial determination of prevailing morality.

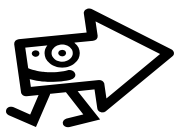
▪ **Consideration**

8. Consideration is something of value that is given in exchange for a promise. It is based on the idea of quid pro quo ("something for something"). In almost all contracts, consideration is required for enforceability.

▪ **Mutual agreement**

9. Contracts usually consist of mutual promises given by parties with intent to bind themselves. A promise creates for the promisor (the person making the promise) a future obligation. For the promisee (the person to whom the promise is made) it creates an expectation that the promise will be fulfilled. Furthermore, the promisee will often rely on the promise.

10. It is not necessary that the thing promised be affirmative; it may be refraining from acting or promising not to act. A promise made to give \$1,000 to a friend if she does not smoke (a negative unilateral contract) is mutual and binding.



**6.3. LEXIS**

employment - наем, прием на работу, трудоустройство

agency - посредничество, представительство

commercial papers - кредитно-денежные документы

secured transaction - обеспеченная сделка, транзакция под гарантии

are met - осуществляются, учитываются, соблюдаются

remedy - средство правовой судебной защиты, средство защиты права; право на возмещение

injured party - сторона, понёсшая ущерб

sue for money damages - обращаться в суд с иском о денежной компенсации убытков

rescission – расторжение договора

soft drink machine - автомат по продаже безалкогольных напитков  
course of conduct - линия поведения, образ действия  
meeting of minds - совпадение воли и желаний сторон (в процессе заключения договора)  
intention – намерение, стремление  
binding - принудительный, обязательный, обязывающий  
minor - несовершеннолетний; лицо, не достигшее совершеннолетия  
public policy - общественное мнение, публичный порядок  
quid pro quo - лат. услуга за услугу, встречное удовлетворение  
promisor - лицо, дающее обещание; должник по договору  
promisee - лицо, которому дают обещание; кредитор по договору  
rely on - полагаться, надеяться; доверять, быть уверенным  
affirmative - позитивный, положительный, утвердительный  
refrain - сдерживаться, воздерживаться (от чего-либо); не совершать (что-либо)  
negative unilateral contract - односторонний контракт о вознаграждении другой стороны в случае несовершения той стороной какого-л. действия



#### **6.4. QUESTIONS**

1. What branches of law are associated with Contract Law?
2. Give a definition of a contract.
3. What is the meaning of the phrase "a legally competent person" if we speak about contractual obligations?
4. Who is usually considered to be legally incompetent?
5. Is a contract void or voidable if its subject matter occurs to be illegal?
6. If they say that the subject matter of a contract is against public policy what do they mean?
7. What is the role of consideration in contractual relations?
8. How do they call a person to whom the promise is made? What does the promise create for him?
9. What is a difference between affirmative and negative promises?



#### **6.5. AGREE OR DISAGREE**

1. A contract is legally enforceable only if it is based on an express agreement of the parties.
2. For a contract to be enforceable it is not necessary to be in writing.
3. A contract is treated as valid even in the absence of any one of its four essential elements.
4. Intoxicated persons by no means are considered legally incompetent.

5. If the subject matter of a contract is against law they say that it is a negative contract.
6. In contractual relations consideration is an equivalent to promise.



### 6.6. SAY WHAT YOU KNOW about:

- various forms of consideration as an integral part of a valid contract;
- forms of rejection of an offer;
- forms of discharge of contract.



### 6.7. SCANNING



### **Mutual Agreement: Offer and Acceptance**

1. As defined in the previous text, a contract is a legally enforceable agreement; an agreement is a meeting of the minds. Since courts and juries are not mind readers, the existence of this mental condition must be manifest in words, oral or written, or in actions. The mutual assent of the parties to a contract is manifested in two legal concepts, the offer and the acceptance.

2. **The offer.** The simplest way to form an express contract begins with a formal offer. There are two requirements of an offer: a) it must indicate a clear, definite intent to make a contract and b) it must be communicated to the other party.

3. If an offer does not specify a period of time during which it is to remain open, it expires after the passage of a reasonable time. What constitutes a reasonable time depends on the implied intention of the offerer and the property or goods offered, customs of the trade or business, and the like. When the time during which the offer is to remain open is specified, that time then becomes the expiration date. An offer may expire at an earlier time than stated, however, because of:

- rejection: if a person to whom an offer has been made rejects it, then they cannot subsequently accept the original offer;
- a counter-offer: where the offeree tries to change the terms of the original offer; a counter-offer should not be confused with a request for information, which does not end the offer;
- revocation of offer: the offeror may revoke a simple offer at any time before it is accepted;
- the death or incompetency of either offerer or offeree.

4. **The acceptance.** Acceptance of the offer close a transaction. However, the acceptance must meet certain standards:

- o first, the acceptance must be clear and unqualified; an acceptance that modifies the original offer is treated in the law as a

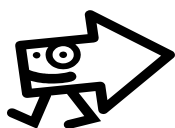
counteroffer, that is, a rejection of the original offer and the making of a new offer;

o second, the offeree must accept in any manner required by the offer. If the offer states, "I must have your answer by 1 P.M. on December 1," then failure to have the answer in the hands of the offerer by that time is fatal to the contract.

5. **Reality of contract.** As explained earlier, a meeting of the minds - mutual assent or agreement - is a necessary element of a contract. Without it, the contract may be void or voidable. There are several reasons why mutual assent may be lacking: mistake, fraud, misrepresentation, undue influence, and duress.

6. **Discharge of contract** means that the parties to an agreement are freed from their contractual obligations. A contract is discharged in one of four ways:

- (a) agreement of the parties to bring the contract to an end;
- (b) performance of obligations;
- (c) frustration;
- (d) breach of contract conditions by another party.



## 6.8. LEXIS

mind reader - тот, кто читает чужие мысли

mental condition - психическое состояние, осознаваемое условие

expire - закончиться, истечь (о сроках), потерять силу (о требованиях)

customs of the trade - торговый обычай

expiration date - дата истечения срока; срок действия

rejection - отказ; неприятие, отклонение (предложения)

counter-offer - встречное предложение, встречная оферта

terms - условия

request for information - запрос о предоставлении информации

revocation - аннулирование, отмена

revoke - отменять, аннулировать; отзывать, объявлять недействительным

incompetency - недееспособность, правоспособность

close a transaction - заключать, завершать сделку

unqualified - абсолютный, безоговорочный, безусловный, неограниченный

in the hands - в распоряжении, в интересах (кого-либо)

reality - действительность, истинность; неподдельность

lacking - недостающий, отсутствующий, недостаточный

fraud - мошенничество

misrepresentation - введение в заблуждение

undue influence - злоупотребление влиянием, неподобающее влияние

duress - физическое принуждение

discharge of contract - исполнение договора, прекращение обязательств по договору

free - освобождать (от каких-л. обязательств и т.п.)

bring the contract to an end – прекратить действие договора

performance - исполнение, выполнение; свершение

frustration - прекращение обязательства из-за невозможности его выполнения из намерение

breach - нарушение



### 6.9. QUESTIONS

1. How may a mutual agreement of contracting parties be manifested?
2. What are the requirements of an offer?
3. What does an expiration date signify in connection with the offer?
4. May an offer expire at an earlier time than its expiration date?
5. Under what conditions can an offerer revoke his or her offer?
6. What is treated as an acceptance in contractual relations?
7. What are legal consequences of mistake, fraud, misrepresentation, duress and undue influence from the point of view of enforceability of a contract?
8. How may contracts be discharged?
9. Which of the following agreements will be enforced by the courts:
  - a. John agrees to sell his car to Peter for \$500.
  - b. John agrees, as favour, to take Peter on holiday with him.
  - c. John agrees to give Peter, as favour, a valuable painting and signs a deed to this effect which is sealed and delivered to Peter.



### 6.10. AGREE OR DISAGREE

1. A contract is based on an oral agreement of two or more parties.
2. Any offer expires after the passage of a reasonable time.
3. Rejection in contractual relations is synonymous to counteroffer.
4. An offerer can revoke his or her offer only in cases stipulated by law.
5. Even without mutual assent of the parties the contract is treated as valid.



6.11. SKIMMING. Read the following text and prepare three-five questions to its content. Be ready to interview your group mates.

An offer is a proposal made on certain terms by offeror with a promise to be bound by that proposal if the offeree accepts the stated terms. An offer may be made to a specific person; in this case this of-

fer can be accepted by that person. If an offer is made to a group of people it may be accepted by any member of the group.

A genuine offer must be distinguished from an “invitation to treat”, which occurs in the following instances:

- the display of goods with a price ticket attached in a shop window or on a supermarket shelf;
- advertisements, catalogues, brochures;
- company prospectus;
- statements of price in negotiations for the sale of land;
- auctions;
- tenders.

An offer can end in a number of ways:

- by acceptance of the offer;
- by rejection of the offer:
  - a) by a counter offer;
  - b) by notifying the offeror of not accepting the offer.
- by revocation before acceptance;
- if the offer lapses;
- if the offeror dies;
- if failure of a condition attached to the offer happens.



## 6.12. SCANNING

### **Kinds of Contracts**

1. Contracts may be classified in three ways: by type of formation (express or implied), by performance (unilateral or bilateral, executed or executory), or by enforceability (valid, unenforceable, void or voidable).

2. By type of formation:

An **express contract** is one in which the terms of the contract are stated by the parties, either orally or in writing. The example of a written one is a contract under seal which is generally called a specialty contract, a covenant or a deed. Three things are essential to a deed - writing, sealing and delivery.

3. An **implied contract** is one in which the terms of the contract are not stated by the parties. There are two types of implied contracts: those implied in fact and those implied in law.

4. The existence and the terms of an implied-in-fact contract are manifested in conduct, rather than words. The proof of the contract lies in the conduct of the parties; it means that a reasonable person, being aware of this conduct, would infer that a contract exists.

5. An implied-in-law or quasi contract is created by operation of law (i.e., a court implies a contract) in order to avoid unjust enrich-

ment of one party at the expense of another. There is no agreement, no meeting of the minds, one party has rendered a benefit to another under such circumstances that fairness and equity require compensation.

#### 6. By type of performance:

##### ▪ **bilateral** versus **unilateral**

A bilateral contract is based on an exchange of promises - a promise for a promise. Thus there is a mutual engagement.

A unilateral contract involves a promise by one party and an act by the other. If, however, the person receiving the offer promises to act before doing so, the contract may become bilateral.

##### ▪ **executed** versus **executory**

An executed contract is one that has been fully performed by both parties; all promises have been fulfilled.

In an executory contract something remains to be done by one or both parties at some future date.

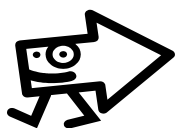
#### 7. By enforceability:

A **valid contract** meets all legal requirements and can be enforced by either party.

An unenforceable contract is one that is valid in itself but not capable of being proved in a court of law because this contract does not meet one or more legal requirements and cannot be enforced by either party. Examples are promises to make a gift (no consideration), promises made in jest (no contractual intent), and past breaches of contract now beyond the statute of limitations.

A **voidable contract** is binding on only one of the parties. The other party has the option to withdraw from the contract or enforce it. Examples are contracts made by minors and contracts made under mental duress.

A **void contract** is a contract that has no legal effect and cannot be enforced by either party. Examples are illegal agreements made under threat of physical force.



#### 6.13. LEXIS

enforceability - обладание исковой силой; возможность принудительного осуществления в судебном порядке; обеспеченность правовой санкцией

contract under seal - договор за печатью (скрепленный печатью)

specialty contract - контракт в виде договора, скрепленного печатью

covenant - договор или акт за печатью; обязательство (из договора за печатью)

deed - документ с подписями и печатью

implied-in-fact contract - подразумеваемый договор (договор, условия которого по умолчанию вытекают из поведения сторон)

infer - заключать; делать (ЛОГИЧЕСКИЙ) ВЫВОД; ВЫВОДИТЬ (ЗАКЛЮЧЕНИЕ, СЛЕДСТВИЕ; ИЗ ЧЕГО-Л.)

implied-in-law - следующий из предписаний закона, подразумеваемый в силу закона

unjust enrichment - неосновательное обогащение, неправомерное обогащение

at the expense - за счёт

render a benefit - оказывать содействие, создавать выгоду

bilateral contract - двусторонний договор

unilateral contract - односторонний контракт; контракт, перед заключением которого одна из сторон уже выполнила почти все свои обязательства

executed contract - контракт, условия которого выполнены обеими сторонами; договор с исполнением в момент заключения

executory contract - контракт, подлежащий исполнению в будущем

unenforceable contract - контракт, претензии по которому не могут быть заявлены в суде

jest - шутка, проказа, розыгрыш

past breach - нарушение договора, срок действия которого уже истёк

withdraw from the contract - денонсировать договор, выйти из договора



#### **6.14. QUESTIONS**

1. What are possible grounds for the classification of contracts?
2. What is a difference between express and implied contracts?
3. What are the two types of implied contracts? Define them.
4. What kind of contracts does not require the existence of mutual promises?
5. Is an unenforceable contract valid or void? Explain your choice.
6. Give the examples of unenforceable contracts.
7. What is a difference between voidable and void contracts? Give examples.



**6.15. PREPARE** a list of five-seven questions of your own to ask about the topic “Contract law”. Be ready to interview the students in your group.



#### **6.16. AGREE OR DISAGREE**

1. There are three general kinds of contracts: a deed, a specialty contract and an implied-in-law contract.
2. Gifts and jests are the examples of voidable contracts.



3. Sometimes it is difficult to define whether there is an executed or executory contract.
4. A quasi contract is created directly by the conduct of the parties rather than words.



**6.17. COMPLETE** the extracts using the words in the box below.

What is a contract?

It is an agreement that creates a binding <sup>1)</sup> \_\_\_\_\_ upon the parties. The essentials of a contract are as follows: mutual <sup>2)</sup> \_\_\_\_\_; a legal <sup>3)</sup> \_\_\_\_\_, which in most instances need not be financial; parties who have legal <sup>4)</sup> \_\_\_\_\_ to make a contract; absence of <sup>5)</sup> \_\_\_\_\_ or duress; and a subject matter that is not <sup>6)</sup> \_\_\_\_\_ or against public policy.

What form does a contract take?

In general, contracts may be either <sup>7)</sup> \_\_\_\_\_ or written. Certain types of contracts, however, in order to be enforceable, must be written and <sup>8)</sup> \_\_\_\_\_. These include contracts involving the sale and transfer of <sup>9)</sup> \_\_\_\_\_.

How does a contract end?

In case of a <sup>10)</sup> \_\_\_\_\_ of contract, the injured party may go to court to sue for financial compensation (or <sup>11)</sup> \_\_\_\_\_), or for rescission, for injunction, or for specific performance if financial compensation would not compensate for the breach. Specific <sup>12)</sup> \_\_\_\_\_ of a contract is the right by one contracting party to have the other contracting party perform the contract according to the precise <sup>13)</sup> \_\_\_\_\_ agreed.

agreement, breach, capacity, consideration, damages, fraud, illegal, obligation, oral, performance, property, signed, terms



**6.18. SAY WHAT YOU KNOW** about:

- the importance of contract law in international business;
- fundamental norms that the structure and content of a written agreement must comply with;
- different kinds of contractual clauses.



**6.19. DEBATES**

Do you support the statement: “A contract is only as good as the relationship with the other party in the contract”.

**6.20. KEY WORDS**

acceptance  
acceptor

implied-in-law contract  
legally enforceable agreement

assent  
bilateral contract  
breach of contract  
capacity of the party  
consideration  
contract under seal  
contracting party  
contractual relationship  
counteroffer  
deed  
enforceability  
executed contract  
executory contract  
expiration date  
express contract  
implied contract  
implied-in-fact contract

misrepresentation  
money damages  
mutual promises  
offer  
offeree  
offerer  
party to contract  
specific performance  
subject matter  
terms of contract  
to bind  
to rescind  
unenforceable contract  
unilateral contract  
valid  
void  
voidable



**6.21. MAKE A REPORT** on the topic “Contract Law”, paying attention to the following points in your speech:

- nature of contract law;
- essential elements of a valid contract;
- classifications of contracts;
- discharge of contractual obligations.

*Учебное издание*

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