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ПОЗНАВАТЕЛЬНОЕ ЧТЕНИЕ ДЛЯ СТУДЕНТОВ ЮРИДИЧЕСКИХ ФАКУЛЬТЕТОВ

READING FOR LAW STUDENTS

Учебное пособие

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Основная цель пособия – обучить чтению и переводу юридической литературы, а также расширить активный и пассивный словарный запас в области юридической терминологии. Содержит задания, нацеленные на развитие навыков ведения дискуссии и профессионально-ориентированной устной беседы. Состоит из четырех тематических разделов, которые включают аутентичный текстовой материал, имеющий юридическую направленность. Тексты сопровождаются англо-русским глоссарием, предтекстовыми и послетекстовыми упражнениями.

Может быть использовано как для аудиторной, так и для самостоятельной работы студентами юридических факультетов второго года обучения, магистрантами и аспирантами.

ББК 81.2Англ.

PART 1

CIVIL LAW

U N I T 1

THE LEGAL FOUNDATION FOR A BUSINESS

Before you read text 1A

Comment on the following

«Well, I don't know as I want a lawyer to tell me what I cannot do. I hire him to tell how to do what I want to do»». John Pierpont Morgan. 1837-1913, American Banker, Financier, Art Collector

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. More and more businesses are concerned with prescriptive law.
2. The average person does not think lawyers know the law.
3. The lawyer needs to accumulate potentially useful information.
4. As a counselor, the business lawyer must be imaginative and emotional.
5. The lawyer possesses negotiating skills.

B. Understanding details

Read text 1A and answer these questions.

I. When did a business usually contact a lawyer in the past?

2. Are more and more businesses concerned with preventive law?

3. What kind of training do lawyers receive in law schools?

4. How does a lawyer practice preventive law?

5. How must the business lawyer work in a business firm if he or she has a position of counselor?

6. What is the role of an investigator?

7. What happens if the investigator uncovers some damaging information during the course of the investigation?

8. What documents does the business lawyer draft?

9. Why is good drafting important?

10. Which of the client's arguments does a good negotiator present?

11. Who may disputes arise with?

Text 1A

THE FIRM AND ITS ATTORNEY

With the advent of increased government regulation, businesses have become more apt to call upon lawyers to assist them through the «red tape». In the past a business usually did not contact lawyers until a problem arose, for example, when it was sued or when a distributor would not pay an outstanding debt. However, more and more businesses are concerned with preventive law, in attempts to avoid the unfavorable consequences that accompany uninformed business practices. Business managers today have a more ongoing relationship with the lawyers than they had in the past and thus need to know exactly how lawyers function.

Lawyers have a common base of training: law school. In law school the lawyer receives generalized training enabling him or her to adapt to a wide range of tasks. The average person thinks lawyers know the law. It is more accurate, however, to say that lawyers are generally versed in an array of legal principles and they know how to find the relevant law and to apply it to particular circumstances. It is this general training and ability that equip a lawyer for various specialized tasks.

The lawyer practices preventive law by counseling the business client. Wise counsel can avoid a host of problems; for example, advising a corporation regarding the legal consequences of a merger might avert potential antitrust problems. As a counselor, the business lawyer must be imaginative and perceive the range of alternative courses of action and foresee the probable legal consequences that attach to each. To do this the business lawyer must be versed in the multidimensional operations and activities of the business firm.

The role of investigator is often preliminary to the role of counselor or advocate. The lawyer needs to accumulate potentially useful information and then to extract the data pertinent to the particular task. This takes cooperation with the business client who knows the intrafirm operations and where to find specific documents. During the course of the investigation the attorney may uncover damaging information or even evidence of criminal activity. The attorney owes an allegiance to the client. Although an attorney is deemed an officer of the court and can not counsel a client to participate in illegal activities, nonetheless the canons of ethics, as constituted at present, do not require the attorney to «blow the whistle».

The business lawyer drafts documents for the firm. Contracts, deeds, corporate instruments, and securities registration statements are just a few of the documents that are commonly prepared by lawyers. Good drafting is important to avoid adverse consequences. In this respect drafting is a form of preventive law.

The lawyer possesses negotiating skills. The role of the negotiator is akin to that of the advocate. The lawyer presents the client's strongest arguments in order to achieve the best result possible. Negotiation may be necessitated by a dispute with a regulatory agency, another business, or the customer. Successful negotiation resulting in a settlement often avoids costly suits, work stoppages, and other undesirable economic consequences.

In the capacity of an advocate, the lawyer is called upon to represent the client's interest. This may occur in a court, before an administrative agency or a

legislative body, or in another arena. The lawyer's duty, as an advocate, is to present the facts and the law in the light most favorable to the client. Of course, the opponent's lawyer will be doing the same. This is the adversary system which enables the judge or other hearing officers to examine the full range of arguments before arriving at a reasoned decision.

Vocabulary notes

attorney – юрист, адвокат, поверенный, прокурор; **Attorney General** – генеральный прокурор (англ.), министр юстиции (амер.); **by attorney** – по доверенности, через поверенного; **defense attorney** – защитник; **general power of attorney** – общая доверенность; **power of attorney, warrant of attorney** –доверенность; **attorney-client privilege** – право клиента на конфиденциальность общения с адвокатом; **attorney-lien** – право адвоката на держание денег или собственности клиента; **attorneyship** – статус адвоката; **advent** – приход, появление; **apt** – склонный, уместный; **sue** – предъявлять иск; **outstanding debt** – невозвращенный долг; **ongoing** – постоянный; **versed** – сведущий, опытный; **array** – множество, набор; **relevant** – относящийся к делу; **equip** – предоставить все необходимое; **counsel** – юрист, группа юристов; **counselor** – адвокат, советник; **host** – асса; **merger** – слияние компаний; **avert** – предотвращать; **perceive** – понимать**; multidimensional** – многоаспектный; **pertinent** – относящийся к делу, уместный; **allegiance** – лояльность преданность; **deem** – считать, рассматривать; **corporate deed** – корпоративный документ за печатью; **instrumen**t – правовой документ; **adverse** – отрицательный, неблагоприятный; **akin** – сходный, близкий; **regulatory agency** – орган управления; **settlement** – урегулирование, уплата; **capacity** – компетенция, должность.

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. more and more businesses are concerned ... preventive law
2. to adapt … a wide range of tasks
3. to apply it ... particular circumstances
4. equip a lawyer ... various specialized tasks
5. practices preventive law ... counseling the business client
6. a host... problems
7. alternative courses ... action
8. preliminary ... the role of counselor or advocate
9. cooperation … the business client
10. during the course ... the investigation
11. evidence ... criminal activity
12. owes an allegiance ... the firm
13. drafts documents ... the firm
14. successful negotiation resulting ... a settlement
15. in the light most favorable ... the client

Speaking practice

Discuss the duties of an attorney of the firm. Retell the text.

Before you read text 1B

Comment on the following

If there were no bad people there would be no good lawyers. (Charles Dickens)

Reading tasks

A. Understanding main points

Scan text 1A and answer these questions.

1. What are some areas of the law in which lawyers usually specialize?
2. Do you think the opinion that «a lawyer is not permitted to solicit clients by

direct contact» is true today?

3. What is the attorney - client privilege?

B. Understanding details

Read text 1A and answer these questions.

1. Do the lawyers usually «hang specialty shingles»?

2. What are the advantages of selecting a generalist as corporate counsel?

3.What relationship can there be between the general practitioner and a specialist invited when a special problem arises?

4. What are the advantages of hiring an in-house lawyer?

5 What lawyer can quickly identify legal pitfalls and give on-the-spot advice?

6. If a person needs a lawyer's service, who must take the initiative?

7 Why is a contract drafted by the client himself usually poorly drafted?

8. Why should the client, in his or her relations with the attorney, make a full disclosure of the facts relevant to the problem?

9 Why may the attorney's questioning, when seeking information from the client, sometimes seem accusatory?

10. Why doesn't the informed business client take offense at accusatory questioning?

11. What do the canons of ethics not permit an attorney to disclose?

Text 1B

SELECTING A LAWYER

No lawyer is an expert in all of the above roles or in every substantive area of the law. Some lawyers concentrate their practice in the area of counseling, while others develop and utilize specialized skills in advocacy. Some attorneys concentrate on antitrust law, while others specialize in tax law. For these reasons, it might seem desirable for the corporate client to choose a lawyer based *on* the

specific problem that arises. However, this is not always feasible. First, lawyers do not normally «hang specialty shingles», and in most states they are prohibited to do so. Consequently it is difficult for the business manager to know whom to call upon among the ranks of specialists. Second, specialists have a narrow focus on their specialty and lack a perception of the big picture. Selecting a generalist as corporate counsel has its advantages. The general practitioner can effectively handle most of the routine problems that confront a business firm. When a problem arises that necessitates a specialist, the general corporate practitioner is in a position to refer the client to one. The general practitioner will then be in a position to assist the client by briefing the specialist on the problem, thus saving valuable time.

Large companies hire lawyers and establish their own inside law firm. In-house lawyers have the advantage of being closer to and more familiar with the business firm. They are hence in a better position than outside counsel to quickly identify and react to potential legal pitfalls and render on-the-spot advice. When a problem necessitates specialized attention, it can be referred to outside counsel.

A lawyer is not permitted to solicit clients by direct contact. A person needing a lawyer's service must take the initiative and should contact counsel early and not wait until the problem intensifies. It is better to have a lawyer draft a contract than to call a lawyer to remedy a problem arising from a contract poorly drafted by the client. If a firm has retained counsel or has an ongoing professional relationship with counsel, then that counsel can take the initiative when aware of an activity or law that will affect the firm's business. This is not deemed solicitation since a lawyer-client relationship already exists.

It is important that the client make a full disclosure of the facts relevant to the given problem. If an attorney's opinion is based on anything less, the opinion is incomplete, A general understanding of the law affecting the business will help a business client to detail the material facts and avoid irrelevancies when com-municating with a lawyer. Understanding the lawyer's role will facilitate commu-nication. For example, a lawyer's questioning when seeking

information from a client may sometimes seem accusatory. This questioning is deliberate, however, and it may be designed to prepare a client for intensive cross-examination at a court trial. The informed business client does not take offense at such questioning and recognizes that when the time for advocacy occurs, the lawyer will exert his or her skills toward defending the client.

The client should not take a passive role but should be actively engaged in assisting the lawyer's search for solutions. The business client needs to clearly inform the lawyer of the business purpose so that the lawyer will seek solutions compatible with that purpose. Finally, the client should expect high-quality service from counsel and should communicate that expectation. After all, the client is paying the bill.

The law encourages clients to fully communicate with their counsel by protecting such communication from disclosure to a third person. The attorney-client privilege gives the client the right to conceal matters relating to his or her counsel's advice. The canons of ethics do not permit an attorney to disclose communications regarding legal advice to the client. The client may, however. waive the privilege and authorize the attorney to make disclosure. The privilege only applies to confidential communications. Communications made to an attorney in the presence of third parties other than the client's agents or employees are not privileged.

Vocabulary notes

Substantive – существенный; **feasible** – осуществимый; **shingle** – вывеска (амер.); **generalist** – универсал; **briefing** – давать инструкции; **in-house lawyer** – штатный адвокат; **pitfall** – опасность, ловушка; **render** – предоставлять; **on-the-spot** – на месте; **solicit** – предлагать услуги; **solicitor** – адвокат, поверенный; **solicitation** – подбор юристов, ведение дел в суде; **remedy** – средство судебной защиты, исправлять; **retain** – нанимать адвоката; **aware** – осознающий; **disclosure** – раскрытие; **facilitate** – облегчать; **accusatory** – обвинительный; **deliberate** – преднамеренный;

cross-examination – перекрестный допрос; **court trial** – судебное разбирательство; **take offense** – обижаться; **exert** – прилагать усилия; **compatible** – сочетаемый; **conceal** – скрывать; **canons of ethics** – этические нормы; **waive** – отказаться от права; **authorize** – уполномочить.

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. Some attorneys concentrate ... antitrust law.
2. Others specialize ... tax law
3. They are prohibited ... doing so.
4. It is difficult ... the business manager to know
5. will then be … a position to assist the client
6. by briefing the specialist... the problem
7. closer … and more familiar ... the business firm
8. It can be referred ... outside counsel.
9. a problem arising ... a contract poorly drafted ... the client
10. the facts relevant ... the given question or problem
11. when seeking information ... a client
12. intensive cross-examination … a court trial
13. does not take offense … such questioning
14. should be actively engaged ... assisting the lawyer's search ... solutions
15. to clearly inform the lawyer ... the business purpose
16. solutions compatible ... that purpose
17. expect high quality service ... counsel
18. The law encourages clients to fully communicate ... their counsel
19. by protecting such communication ... disclosure ... a third party
20. The privilege only applies ... confidential communications.
21. communications made … an attorney … the presence of third parties.

Speaking practice

Give a summary of the text using the questions given in reading tasks as a plan.

Before you read text 1C

Comment on the following

Every person has free choice. Free to obey or disobey the Natural Laws. Your choice determines the consequences. Nobody ever did, or ever will, escape the consequences of his choices. (Alfred A. Montapert. American Author)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. Businesses come in one size and shape.
2. It is estimated that 20 percent of all lawyers in the United States work directly for individuals and partnerships.
3. Most firms never create a separate legal department, becouse it works with one aspect of the business.

B. Understanding details

Read text 1C and answer these questions.

1. What proportion of all lawyers in the United States work directly for corporations?
2. Can you name three reasons why in-house counsel is the best choice for many businesses?
3. If a business hires a law firm, what expenses must the business cover?
4. How can the in-house counselor provide protection from liability suits for the management?

5. Why may the in-house lawyer become too «tame»?
6. How can the in-house lawyer be fitted into the business organizational chart?

Text 1C

SELECTING THE LEGAL FOUNDATION FOR A BUSINESS

Businesses come in all sizes and shapes, and so do lawyers, law firms and legal service arrangements. Each form of legal service has its advantages and disadvantages and its unique costs and fee structure. Nonetheless, most business people spend more time shopping for groceries than they do for the lawyers who have no small amount of control over the success and, in some cases, the solvency of their business. Careful selection of legal services for a business is critical.

In addition, once legal services are selected, they must be constantly reviewed. Close scrutiny of the skills, service and cost of lawyers is necessary for a business to establish a strong legal strategy. Yet many managers fail to monitor legal services with the same care they give other services used in their business.

It is estimated that 20 percent of all lawyers in the United States work directly for corporations. Although in-house counsels were once viewed as the backward segment of the legal profession, this group has now become a critical part of business structure and business decisions.

There are several reasons why in-house counsel can be the best choice for many businesses. They include cost benefits, the need for preventive legal advice, increases in government regulation, and the scrutiny of consumers and competetors.

The first reason most businesses give for using in-house counsel is that

thecost of retaining outside counsel is much higher. Hiring a law firm means hiring **a**business with overhead and thus paying part of that overhead. Businesses that use outside lawyers pay an hourly rate that covers not only the time of the attorney but also the attorney's offices, staff, supplies, insurance, and so on. In some cases, the business is paying for the firm's entire cost of operations.

Consumers, shareholders, creditors, and employees are all likely to be in litigious moods these days. All factions of the business audience and participants are carefully watching every firm's moves and are ready to pounce in the event of an error. Board meetings must be carefully planned, advance legal notices must be served, and the meetings must be properly conducted so that shareholders are satisfied with the protection of their rights and directors enjoy some protection from liability suits. Financial statements must be prepared carefully so that creditors are not misled about the firm's financial picture. In-house lawyers can help to make sure that all these activities are carried out in a legally proper and safe manner.

While in-house counsel may sound ideal, it is not right for all firms. First, some firms are not large enough to afford or need in-house counsel. In addition, some in-house lawyers may become too «tame». Outside counsel has no difficulty in saying no to its clients; it is paid to do so when necessary. In-house lawyers however, may find it difficult to say no to people who evaluate them and pay their salaries.

Still another problem that results from going in-house is that of fitting the lawyers into the business organizational chart. Most firms create a separate legal department, even if only one lawyer is hired. This department works with all other aspects of the business, from marketing to finance to accounts receivable, and is required to provide advice and assistance on all projects and to all other company departments. Who, then, should be responsible for evaluation of the legal department and its members? This question becomes even more thorny when one remembers that, as previously mentioned, the legal department must

sometimes say no, even to high-ranking managers. People who have been told no may find it hard to be objective in their evaluation of a legal department. There is no easy answer to this question. The legal department must remain an island, yet somehow be integrated.

Vocabulary notes

Solvency – платежеспособность, кредитоспособность; **scrutiny** – тщательное рассмотрение; **scrutinize** – внимательно рассматривать**; retainer** – договор с адвокатом, предварительны; **overhead** – накладные расходы**; hourly rate** – почасовая ставка; **faction** – фракция; **audience** – публика; **pounce** – набрасываться; **legal notice** – предусмотренное правом уведомление; **serve** – подать, предъявить**; liability suit** – иск в связи с ответственностью фирмы; **drawback** – недостаток, отрицательная черта; **tame** – прирученный; **accounts receivable(s**) – дебиторы по расчетам; **thorny** – тернистый, трудноразрешимый.

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. have no small control ... the success and the solvency of the business
2. Careful selection of legal services ... a business is critical.
3. close scrutiny … the skills, service and cost of lawyers
4. work directly ... corporations
5. the best choice ... many businesses the need ... preventive legal advice
6. increases ... government regulation
8. the cost .., retaining outside counsel
9. The business is paying … the firm's entire cost of operations
10. are all likely to be ... litigious moods
11. the protection ... their rights

12. some protection … liability suits
13. are not misled ... the firm's financial picture
14. are carried out… a legally proper and safe manner
15. It is not right... all firms.
16. say no … people who evaluate them
17. results ... «going in-house»
18. advice and assistance ... all projects
19. responsible ... evaluation of the legal department
20. to be objective ... their evaluation of a legal department
21. There is no easy answer... this question.

Speaking practice

Give a summary of the text using the questions given in reading tasks as a plan.

Before you read text 1D

Comment on the following

I don't think you can make a lawyer honest by an act of legislature. You've got to work on his conscience. And his lack of conscience is what makes him a lawyer. (Will Rogers)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. The lawyer or lawyers hired need offices, staff assistance, books, equipment, and so on.
2. The legal department will work with one department in the business.
3. The lawyers are not part of the team.
4. The in-house lawyer and the other executives of the company do not deal with their internal written documents?

B. Understanding details

Read text 1D and answer these questions.

1. What kind of supplemental staff will an in-house lawyer or lawyers need?

2. Why is it important that the legal department be independent

of all other departments in the business?

3. Who does the legal department usually report to?

4. Who is responsible for the evaluation of the legal department's perform ance?

5. If a company has an in-house attorney, is the company the attorney's client?

6. Why is it necessary for the in-house lawyer and the other executives of the company to be very careful in their internal written communications?

Text 1D

IN HOUSE LEGAL DEPARTMENT

Although one saves paying the overhead of an outside firm, it does cost more than just the lawyer's salary to hire in-house counsel. The lawyer or lawyers hired will need offices, staff assistance, books, equipment, and so on. For example, the lawyer will need a specialized legal secretary and probably also a paralegal or a law clerk to assist with routine functions. Such supplemental staff probably cannot be drawn from in-house resources because of the specialized nature of the work.

Once the decision to hire in-house counsel is made, certain other decisions must follow. Managers making those decisions should keep in mind the goals of «going in-house»: reducing legal costs, preserving the autonomy of the legal opinion, and integrating legal considerations into business strategic planning. The following sections will examine some of the areas that must be considered when an in-house legal department is established.

Although the legal department will work with every other department in the business, it is important that the reporting line of authority for it be clear and somewhat independent of its day-to-day working relationships. In man firms, the legal department reports directly to the CEO, and the CEO alone is responsible for the evaluation of the department's performance. This leaves a legal department a large measure of freedom to offer opinions, including negative opinions, without the fear of those opinions affecting performance evaluation. Naturally, the legal department may sometimes have to tell even the CEO «no», but the presumption is that the CEO will understand the rationale for the «no» and, indeed, will understand that one of the reasons for having in-house legal counsel is to have a «no» given before it is too late. Others with whom the legal department works may have less grasp of strategic legal planning.

Another good reason for having the legal department report to the CEO is the signal this sends to the rest of the firm about the importance of legal counsel. It emphasizes that legal issues are a consideration in business planning as much as marketing or production. The head of the legal department should be a participant in all activities and meetings that involve other department heads. All the firm's executives must understand that the lawyers are part of the team and are there to bring a new perspective for planning and strategy.

One of the dangers of having in-house counsel is that the lawyers who are brought in may begin to become business executives rather than lawyers and to forget the special features of the attorney-client relationship. The company is still the in-house attorney's client, and its privileges and those of its executives must be protected. That privilege may be protected in several ways. First, the purpose of meetings should be clearly formulated. If the lawyer is meeting with an executive to discuss a potential lawsuit, the communication is privileged. On the other hand, if the lawyer is sitting in on a staff meeting, the lawyer may be playing the role of an executive and a strategist.

Line-drawing must be even more carefully done in the case of internal written

communications. Because the in-house lawyer is there on a day-to-day basis, others tend to forget the lawyer's unique status and write to him or her just as they do to anyone else in the firm. Sensitive documents, however, should be clearly identified. For example, an executive might start a memo or note with a statement such as «To aid you in preparing for the Smith case» or «The following information is offered to help us in our preparation for the trial. Such statements clearly identify the document as one intended to be between lawyer and client and thus make it immune from being disclosed during discovery, since one of the rules of discovery is that the attorney's work product (the theories, strategies, and plans for the case) is protected.

Vocabulary Notes

Paralegal – лицо, обладающее знаниями в юриспруденции, но не являющееся юристом; **reporting line (of authority)** – субординация; **CEO** (Chief Executive Officer) – главный исполнительный директор корпорации**;** **rationale** – логическое обоснование, разумное объяснение; **grasp** – понимание, схватывание; **executive** – руководитель, администратор**;** **memo** – служебная записка; **imunity** – иммунитет, неприкосновенность; immune – пользующийся иммунитетом; **discovery** – представление документов, раскрытие.

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. the overhead ... an outside firm
2. to assist... routine functions
3. preserving the autonomy ... the legal opinion
4. integrating legal considerations ... business strategic planning
5. independent ... its day-to-day working relationships

6.The legal department reports directly ... the CEO.

7. to offer opinions, including negative opinions, ... fear of those opinions affecting performance evaluation

8. one of the reasons ... having in-house legal counsel

9. another good reason for having the legal department report... the CEO

10. the signal it sends to the rest ... the firm … the importance of the legal counsel

11. a participant ... all activities

12. the special features … attorney-client relationship

13. may be protected ... several ways

14. is sitting in ... a staff meeting

15. is there ... a day-to-day basis

16. start a memo or a note ... a statement

17. in preparation ... the Smith case

Speaking practice

Give a summary of the text using the questions given in reading tasks as a plan.

Before you read text 1D

Anwser the following questions:

1. What types of business do you know?

2. Is it easy to form a business?

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. A business structure is unimportant for a company.

2. Sole proprietorships usually last long in this form.

3. The partners need to understand clearly what roles and authority they have in operating the partnership.

B. Understanding details

Read text 1D and answer these questions.

1. What do businesses consider in making credit and contract decisions concerning other businesses?
2. What things about a business can be determined by its structure?
3. Why is it correct to say that the sole proprietorship is truly informal business?
4. How do many sole proprietorships operate?
5. Does the owner of a sole proprietorship comply with statutes and regulations?
6. Why do sole proprietorships present greater risks in credit extension?
7. What do partners in a partnership receive and what do they share?
8. In case of collection of the partnership's debts, are personal assets of the partners subject to attachment for collection?

Text 1E

FORMS OF BUSINESS ORGANIZATION

Every business must have a business structure. Each of the available op tions carries with it certain benefits, risks, and rules of operation that must be followed. The nature and condition of a business's structure is a significant part of the information that other businesses consider in making credit and contract decisions. The stability of the structure, the adeqaacv of capitalization, and the amount of liability of the owners are all critical factors in the decision to buy, sell, or extend credit. The way even boards conduct business is subject to judicial scrutiny, and board members can experience personal liability for failure to honor business structure rules.

When a business first begins, its owner or owners must decide what structure or form it will take. This structure will determine many things about the business,

including the liability of its owners under various circumstances. It also will affect those who do business with the firm, controlling how much sellers and customers will be paid or will receive on arrangement. It thus becomes important to understand the structure not only of one's own business but also of the other firms with which one deals. This structure marks the truly informal business. There are no require ments for its formation. One person owns and generally operates the business. That person receives all income and also bears all losses and liabilities. There is no one to turn to for the collection of debts except the sole proprietor.

Many sole proprietorships operate under a «doing business as» (d/b/a) name, and that name sometimes hides the fact that the business is a sole proprietorship. It is important for creditors and sellers to verify the nature of the business and find out who is liable for the firm's contracts and agreements. Indeed, the signature of the sole proprietor, not the name of the business, is necessary in order to have a valid contract because the business as such has no legal existence and cannot contract - only the owner can. The operation of a sole proprietorship is a loose affair. Except for the compli-ance with statutes and regulations, the owner is free to deal as he or she sees fit. Because of the ease of formation and the ability to declare personal bankruptcy as a hajt to the business, these types of firms present greater risks in credit extension. The credit rating of the firm is the credit rating of the proprietor. Sole proprietorships usually do not last long in this form. They either go on to different forms of existence in order to raise capital or become part of the statistics on failed businesses.

The Partnership. While a partnership has the benefit of having at least two people on theline instead of one, it does carry the same types of liability risks and income benefits for the owners as a sole proprietorship. Partners receive all the profits nbut also share the losses, and their personal assets are subject to attachment for collection of the partnership's debts. Again, the credit rating of the partnership is the credit rating of the individual partners.

Signatures and Authority. In dealing with partnerships, the businesses should verify the authority ofthe signing partner (certain types of agreements require the

signatures of all partners.) It is also important to distinguish between contracts that partners enter into for the partnership and those that they enter into for personal use or benefit. Partners acting without authority or for personal reasons do not bind the partnership, and the assets of the partnership cannot be attached for collection of the contract amount.

The partners themselves need to understand clearly what roles and authority they have in operating the partnership. If there are limitations on what how much one partner can contract for, those limitations should be made clearboth to the partners and to those who do business with the partnership. For example, if a partner can sign for office supplies but not for new equipment, suppliers must be made aware of those limitations.

Vocabulary Notes

Benefit – прибыль, выгода**; adequacy** – достаточность, соответствие; **extend credit** – предоставить кредит; **be subject to** – подвергаться; **judicial** – рассудительный; **scrutiny** – тщательное рассмотрение, критическое изучение; **honor** – чтить, уважать, оплачивать (чек); **affect** – воздействовать на; **on arrangement** – по договоренности; **collection of debts** – взыскание долгов, инкассирование долгов; **loose** – свободный, несвязанный, расплывчатый; **compliance** – соблюдение, выполнение, согласие; **statute** – закон; **halt** – остановка, останавливать(ся); **credit extension** – предоставление кредита; **credit rating** – оценка кредитоспособности; **attachment** – наложение ареста на имущество, изъятие; **bind** – связывать, обязывать; **make somebody aware** – дать кому-либо понять, довести до сведения

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. each ... the available options

2.consider ... making credit and contract decisions

3.the amount ... liability ... the owners

4.The way boards conduct business is judicial scrutiny.

5. will determine many things ... the business

6.the other firms ... which one deals

7.the structure not only ... one's own business

8. there is no one to turn ... for the collection of debts

9.It is important... creditors and sellers to verify the nature of the business

10.who is liable ... the firm's contracts and agreements

11.present greater risk ... credit extension

12.the credit rating ... the firm

13.do not last long ... this form

14.part of the statistics... failed businesses

15. the benefit... having at least two people

16. their personal assets are attachment for collection ... the partner ship's debts

17. in dealing ... partnerships

18. contracts that partners enter... for the partnership

19. if there are limitations ... what and how much one partner can contract for

20. if a partner can sign ... office supplies, but not for new equipment

Speaking practice

Compare forms of business using phrases with prepositions.

U N I T 2

PREMISES AND PRODUCT LIABILITY

Before you read text 2 A

Comment on the following

An accident is an inevitable occurrence due to the actions of immutable natural laws. (Ambrose Bierce 1842-1914, American Author, Editor)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. Accidents have never occurred on the business premises.
2. Employees themselves are responsible for their actions and inactions
3. A company needs to exclude in its premises liability strategy a plan for actions to take after accidents to minimize liability.

B. Understanding details

Read text 2 A and answer these questions.

1. Why is it important to review previous accidents?
2. Who carries liability for actions and inactions of a businesses employees?
3. If a potential employee is invited for a trusted position, what check is particularly important?
4. What plan must be included in a company's premises liability?
5. If an accident happens, what must be done first of all?
6. What are the procedurest o followafter an accident?

Text 2A

ACCIDENTS

When you conduct a premises audit, one of the most important areas to review is the number and type of accidents that have occurred on the business premises during the last three years. The review should include employee as well is nonemployee accidents and should count accidents whether or not they resulted in any suit or liability. Employees should be encouraged to report all accidents, regardless of the type or degree of injury, because any accident could occur, and hazards that cause accidents should be corrected as soon as possible. Evidence that an owner corrected a problem after an accident occurred cannot be admitted in court as evidence that the owner was negligent before the accident.

Employees are considered to be part of the business premises, so an employer carries liability for the actions and inactions of his or her employees. To begin with, courts have decided in recent years that employers have a duty to heck into the background of potential employees. This background check is particularly important where an employee will be in trusted position or will have direct contact with the public, In one case, a man was hired to handle a car rental firm's desk at an airport during the graveyard (11 P. M. to 7 A. M.) shift. He thus was in contact with customers during periods when few other people were around. The man sexually assaulted a woman in the parking lot as he took her out of her rental car, and his employer was held liable for the attack because it turned out that the man had been convicted of sexual assault before and the employer had not done a background check (which would have revealed the conviction) before hiring him. Apartment maintenance personnel or hotel workers who have access to apartments or rooms would also need background checks.

No matter how careful a business may be, accidents are bound to happen sooner or later. A company therefore needs to include in its premises liability strategy a plan for actions to take after accidents to minimize liability and maxi-mize chances for successful results if a suit is filed. As noted in Chapter Two

Disneyland and Disney World have been very successful in defending against premises liability lawsuits because they act rapidly and efficiently when an accident occurs. In addition to giving accident victims and their families and friends treatment and comfort, a business needs to have staff people begin gathering witnesses immediately. People should be questioned while they are at the scene of the accident, their memories are fresh, and the pieces of what is often a puzzle can be most easily put together. Such questioning may discover, for example, that the injured individual had been drinking or had been doing something that he or she was warned about or told not to do.

In short, minimizing premises liability suits requires the help of the users of the premises; customers, employees, and service people. Seeking their input and feedback is an effective and inexpensive way of preventing accidents. Even when accidents occur, these same people are the ones who have the most to offer in an evidentiary sense and can be mobilized to build a case long before a suit is filed.

Procedures to follow after an Accident

1. Arrange for medical care for the injured party and provide transportation or other assistance for relatives and friends.
2. Try to obtain answers to the following questions:
3. Who is with the injured party?
4. How long has the injured party been there?
5. Where was the person before he or she got to this place of business?
6. If there were witnesses to the accident, get their names, addresses, and phone numbers as well as a short statement from each.

Vocabulary Notes

Occur – случаться, произойти; **recur** – произойти вновь; **regardless of** – независимо от; **negligent** – небрежный; **conduct** – поведение; **background** – биографические данные; **graveyard** – кладбище; **graveyard shift** – ночная

смена; **assault** – напасть, нападение; **convict** – объявлять виновным, приговорить; **conviction** – обвинительный приговор, судимость; **respond** – реагировать; **treatment** – медицинская помощь, уход, лечение; **gather** – обирать; **input** – вклад; **feedback** – ответная реакция, обратная связь; **evidentiary** – доказательный; **build a case** – создать / выстроить / подготовить дело; **procedures** – процедура, порядок наблюдения, замечания; **observations** – результаты наблюдения.

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. accidents that have occurred ... the last three years
2. whether or not they resulted ... any suit
3. all accidents regardless ... the type or degree of injury
4. An employee will be ... a trusted position,
5. direct contact… the public
6. He was in contact... customers.
7. had been convicted ... sexual assault before
8. access ... apartments or rooms
9. a plan ... actions to take after accidents
10. maximize chances ... successful results
11. very successful ... defending ... premises liability lawsuits
12. while they are ... the scene of the accident
13. something that he or she was warned ... or told not to do
14. the help ... users ... the premises
15. an effective and inexpensive way ... preventing accidents
16. arrange ... medical care ... the injured party

strategy?

5. If an accident happens, what must be done first of all?
6. What are the procedures to follow after an accident?

Speaking practice

Write an accident report, including all the collected information as well as any additional thoughts or observations.

Before you read text 2 B

Comment on the following

The law is reason, free from passion. (Aristotle)

Reading tasks

A. Understanding main points

Scan text 2 B and answer these questions.

1. What can provide the basis for a form of a product liability suit?
2. What does the warranty of merchantability provide?
3. What is warranty for a particular purpose?
4. Is the warranty considered to be given in particular case?

B. Understanding details

Read text 2B and answer these questions.

1. What can a loss on a product liability case mean in some cases?
2. What can negative publicity mean for a business?
2. What is the most frequently filed type of suit?
4. What is an express warranty?
5. How can you describe an implied warranty?
6. What does the warranty of merchantability provide?
7. Who gives warranty for a particular purpose?

Text 2B

PRODUCT LIABILITY

Product liability suits are even more important to avoid than other types of litigation. In some cases, a loss on a product liability case can mean the destruction of a firm. Even if that does not happen, the negative publicity can mean a substantial reduction in sales and can require the firm to start over again in establishing its credibility and product market.

Product liability suits are the most frequently filed type of suit, and this legal area has seen extensive growth during the past ten years. No firm can entirely eliminate product liability, but businesses can take steps to minimize liability and prevent suits. In addition to being a legal issue, product liability is a quality issue, a production issue and a marketing issue.

Under the Uniform Commercial Code, any statements that a company makes about a product, its content, and its capabilities constitute express warranties, and the failure of the product to fulfill those promises would provide the basis for a form of a product liability suit. For example, if a can of chicken is labeled «boned» and someone breaks a tooth on a bone fragment of a chicken, the person could recover for the broken tooth on a basis of a breach of an express warranty *{Lane* v. *Swanson and Sons,* 1955). If a Mace gun states that it will stop assailants instantly in their tracks, a woman who is assaulted after using the gun can recover for breach of express warranty *(Klages* v. *General Ordnance Equipment Corp.,* 1976). If a baseball player purchases «shatterproof» sunglasses and is later blinded because the glass shatters in his eyes when hit by a ball, he can recover for breach of an express warranty *(Filler* v. *Rayex,* 1970). Terms such as «hypoallergenic» and «non-flammable» are also held to be express warranties, and plaintiffs who suffer from allergic reactions or fires related to the product can recover.

Also under the Uniform Commercial Code, every seller makes an implied warranty of merchantability. The warranty is considered to be given in every

case, even though the seller may be unaware of the UCC and its provisions. This warranty promises the buyer that the goods will be of average quality, will do what the average product of that type will do, will be adequately packaged, and will not contain defects. Under this warranty, food products cannot contain foreign substances, basketballs must bounce, cars must run, and bicycles must have round wheels. The warranty of merchantability provides a basic level of quality for goods and affords the buyer protection if that basic level is not reached. Thus, buyers can recover for damage caused by cherry pies that have pits *(Hunt* v. *Ferguson-Paulus Enterprises,* 1966) or steering wheels on cars that break off while the car is being driven *(Hennigsen*v. *Bloomfteld Motors, Inc.,* 1960).

Warranty for a Particular Purpose is the warranty of sales representatives. When a potential buyer tells a salesperson that he or she needs a product to do a certain thing and the salesperson says «I have just the thing for your needs», the salesperson creates a warranty for which the seller is liable. Under this warranty, the seller guarantees that the product will do what the buyer asked and the salesperson promised that the product would do. If the seller said a fabric would be safe for children's pajamas and the fabric turns out to be flammable, this warranty has been breached. If the seller said a brand of steering column would work for dirt racing vehicles and a vehicle using the steering column overturns because of problems the column has in dirt, this warranty has been breached.

Vocabulary Notes

Product liability – ответственность за несчастные случаи, связанные с продукцией фирмы; **credibility** – надежность, доверие; **entirely eliminate** – устранить полностью; **issue** – проблема, спорный вопрос; **express warranty** – явно выраженная гарантия; **warranty** – гарантия, ручательство; **content** – содержимое, содержание; **boned** – освобожденный от костей; **state** – заявлять, утверждать; **assailant** – нападающий, противник; **shatterproof** – небьющийся;

hypoallergenic –с пониженным содержанием аллергенов; **non-flammable** – невоспламеняющийся; **related to** – относящийся к; **implied warranty** – подразумеваемая гарантия; **merchantability** – пригодность для торговли; **average** – усредненный, обычный; **afford** – предоставлять; **steering wheel** – руль; **fabric** – ткань; **steering column** – рулевая колонка; **dirt racing** – автогонки на грунтовых дорогах.

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. a loss... a product liability case
2. the destruction ... a firm
3. a substantial reduction ... sales
4. in addition ... being a legal issue
5. the failure ... a product to fulfill these promises
6. a basis ... a form of product liability suit
7. recover ... breach of an express warranty
8. an implied warranty ... merchantability
9. The goods will be ... average quality.
10. provides a basic level ... quality for goods
11. I have just the thing ... your needs.

Speaking practice

Give some examples of product liability suits. Have you ever had similar experience?

U N I T 3

BUSINESS CRIMES AND TORTS

Before you read text 3A

Comment on the following

Many commit the same crime with a very different result. One bears a cross for his crime, another – a crown. (D.J.Juvenal)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. The term «white-collar crime» originally referred only to crimes committed against the state.
2. White-collar crime embraces a very narrow spectrum of business misconduct.
3. A number of federal statutes impose criminal liability on persons and firms who offer bribes and kickbacks to federal officials for the purpose of obtaining business advantages.

B. Understanding details

Read text 1A and answer these questions.

1. What did the term «white-collar crime» originally refer to?
2. By what means were white-collar crimes committed?
3. What is the difference between embezzlement and theft?
4. How was the term «white-collar crime» broadened?
5. What crime relating to bankruptcy is described in the text?
6. What kind of liability is imposed on persons and firms who offer bribes to federal officials for the purpose of obtaining business advantages?
7. Which Act addresses bribery of officials of foreign countries?
8. What is the penalty for such bribery?

Text 3A

WHITE COLLAR CRIME

The term «white-collar crime» originally referred only to crimes committed against business firms, usually by their employees, through the use of non-physical, nonviolent means. In this sense, such crime consisted essentially of embezzlement, the taking of an employer's funds by an employee entrusted with such funds, and *theft,* the wrongful taking of any other property of the employer. Today, however, the term has almost universally been broadened to refer to all nonviolent criminal acts committed *by* business firms as well as *against* business firms. Used in this broader sense, white-collar crime embraces a very wide spectrum of business misconduct, covering such diverse wrongs as practicing of fraud on insurance companies, securities fraud, obtaining property through misuse of credit cards, and even income tax evasion. The term also includes computer fraud, a topic warranting special attention at the end of this chapter. In the following section, we will examine some of the most common business-related actions that violate federal or state criminal statutes - most of which fall under the «white-collar» heading.

There are many business-related acts that constitute federal crimes. For example, in the area of bankruptcy, the federal Bankruptcy Reform Act of 1978 takes it a crime for a debtor to willfully transfer property to a confederate before bankruptcy proceedings for the purpose of defrauding creditors, to conceal his or her assets during bankruptcy proceedings, and to give false testimony under oath during such proceedings.

Additionally, a number of federal statutes impose criminal liability on persons and firms who offer bribes and kickbacks to federal officials for the purpose of obtaining business advantages. Similarly, bribery of officials of foreign governments for the purpose of obtaining the sale of goods or services to those governments is a crime under the Foreign Corrupt Practices

Act of 1977 - an act passed after testimony in Congress divulged widespread use of such bribery by **a** number of U. S. firms in the late 1960 s and early 1970 s. Any firm that violates this act can be fined up to $2 million, and officers and directors of such firms may be fined up to $100,000 or imprisoned for up to five years or both.

Vocabulary Notes

Embezzlement – растрата; entrust – вверять, поручать; **theft** – кража, воровство; **wrongful** – противоправный, противозаконный; **embrace** – включать, воспринимать, заключать в объятия; **misconduct** – проступок, должностное преступление; **wrong** – правонарушение; **fraud** – мошенничество, обман; **securities fraud** – мошенничество с ценными бумагами; **defraud** – обманывать, обманом лишать; **fraudulent** – обманный; **misuse** – злоупотребление; **income tax evasion** – уклонение от уплаты подоходного налога; **warrant** – служить оправданием, гарантировать; **criminal statutes** – уголовное законодательство; **constitute** – составлять, учреждать; **confederate** – сообщник, соучастник, союзник; **testimony** – показание, показание свидетеля; **oath** – присяга; **criminal liability** – уголовная ответственность; **bribe** – взятка, подкуп, подкупать; **bribery** – взяточничество, подкуп; **kickback** – часть незаконно полученных денег, взятка; **corrupt** – коррумпированный, продажный, подкупать.

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. by an employee entrusted ... such funds
2. practicing of fraud ... insurance companies
3. obtaining property ... misuse of credit cards
4. some ... the most common business-related actions
5. ... the purpose of defrauding creditors

6- to give false testimony ... oath

7. offer bribes and kickbacks ... federal officials

8. widespread use ... such bribery ... a number of US firms

9. imprisoned ... up to five years

Speaking practice

Give a summary of the text using questions from the pre-text exercises.

Before you read text 3B

Comment on the following

The states and local communities in the US have rights that in other countries generally belong to the central government.

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. There are a few criminal statutes in the various states.

2. False pretenses statutes allow the obtaining of another's money or property by deception by trick, or by some other fraudulent ruse.

3. All states have specific statutes relating to the issuance of bad checks.

B. Understanding details

Read text 3B and answer these questions.

1. How is larceny generally defined?
2. What is the name for the obtaining of another's money or property by deception, trick or some other fraudulent ruse?
3. What examples of false pretenses are given in the text?
4. What is the difference between a misdemeanor and a felony?
5. How many examples of specialized statutes are given in the text?

Text 3B

SELECTED STATE CRIMES

As might be imagined, there are so many criminal statutes in the various states- even when one's inquiry is limited to statutes relating to business offenses alone that a comprehensive treatment of the subject is well beyond the scope of this chapter. Nonetheless, there are a number of major areas of business misconduct that are treated so uniformly by the various states' criminal laws that one can gain a «feel» for such laws by examining a few of these areas.

Larceny is generally defined as the wrongful and fraudulent taking by one person of the personal property of another, with the intent on the part of the taker of converting the property to his or her own use. In addition to simple larceny statutes, some states have larceny by trick statutes or false pretenses statutes that generally prohibit the obtaining of another's money or property by deception by trick, or by some other fraudulent ruse. Examples of such conduct are the filing of false claims with insurance companies and the taking of buyers' money for goods or services with no intent of delivering such goods or services The sales in recent years by «investment firms» of investors' rights to participate in federally operated lotteries of oil lands, with investors being as sured that their chances in selection are 1 in 4 (when in reality the chance is 1 in 1,000), clearly fall within the purview of these statutes. Violations of such statutes are usually misdemeanors when the money or value of the property is under the specific sum (such as $150), and felonies if the value is $150 or above.

The obtaining of money or property by the giving of a bad check would seemingly fall within the general larceny and theft statutes. Nonetheless, all states have specific statutes relating to the issuance of bad checks, which generally impose criminal liability on persons who, with intent to defraud, issue or transfer checks or other negotiable instruments knowing that they

will be dishonored. Such knowledge is presumed to exist, under the typical statute, if the drawer had no account with the drawee bank when the check was issued, or if the check was refused payment because of insufficient funds in the drawer's account when it was presented to the bank for payment. Similarly, most states have separate statutes relating to a number of other special offenses, such as the setting back of automobile odometers with the intent to defraud and the knowing delivery of «short weights» - the charging of buyers for quantities of goods that are greater than the quantities that were actually delivered.

Vocabulary Notes

Inquiry – исследование; расследование, запрос; **offense** – посягательство, правонарушение, преступление; **larceny** – хищение; **pretense** – притворство, обман; **false pretenses** – обман, мошенничество; **prohibit** – запрещать; **deception** – обман; **trick** – хитрость, обман; **by trick** – обманным путем; **the filing of false claims** – подача ложных претензий; **ruse** – уловка, хитрость, обман; **purview** – сфера действия; **violation** – нарушение; **misdemeanor** – мисдиминор, мелкое преступление; **felony** – фелония, тяжкое преступление; **negotiable instrument** – платежное средство; **dishonor** – отказать в оплате; **drawer** – трассант, лицо, выписывающее чек, чекодатель; **drawee** – трассат, лицо, на которое выписывается чек; **odometer** – одометр, счетчик километража.

Vocabulary practice

Fill in the gaps with prepositions translate the following phrases:

1. statutes relating ... business offenses alone
2. a comprehensive treatment... the subject
3. taking ... one person of the personal property ... another

4. converting the property ... his or her own use
5. the obtaining ... another's money or property ... deception
6. investor's right to participate ... federally operated lotteries
7. issuance … bad checks
8. because of insufficient funds ... the drawer's account
9. The drawer had no account ... the drawee's bank.
10. when it was presented ... the bank ... payment

Speaking practice

Read the text again and classify the crimes related to property or money.

Before you read text 3C

Comment on the following.

People create their own success by learning what they need to learn and then by practicing it until they become proficient at it. (Brian Tracy)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. The corporation can be held liable when its employee violates company.
2. The approach to corporate criminal liability hasn't changed?
3. Being held criminally liable for any acts is to act within the scope of authority.
4. Corporations can also be convicted of crimes even if there is no specific criminal intent to do wrong.
5. Corporate officers won't be liable for criminal acts they participate in or authorize.

B. Understanding details

Read text 3C and answer these questions.

1. What is the basic rule for corporations being held criminally liable?

policy or disobeys a specific order from a superior?

2. Will the criminal intent of the employee be imputed to the corporation?

3. Have corporations been indicted for homicide?

4. In what kind of cases have corporations been indicted for health and safety violations?

5. What might signal tacit approval to a subordinate of his or her criminal activity?

6. In what case were three corporate officials convicted of murder?

Text 3C

CORPORATE CRIMINAL LIABILITY

Until relatively recently, it was very rare for a corporation, which is after all a fictional entity, to be indicted for or convicted of a crime. But that has changed. Between 1976 and 1979, 574 corporations were convicted of federal crimes. And state courts are increasingly convicting corporations of crimes where there is an indication that the state legislature intended corporations to be covered by the criminal statutes.

The basic rule is that corporations can be held criminally liable for any acts performed by an employee (no matter how far down the corporate ladder) if that employee is acting within the scope of his or her authority. The basic idea is that the corporation receives the benefit when the agent acts properly, and must bear the responsibility when the agent errs. This is embodied in the *respondent superior* doctrine. The corporation can even be held liable when the agent is violating company policy or disobeying a specific order from a superior.

Corporations can also be convicted of crimes which have an element of liability that the wrongdoer had specific criminal intent to do wrong. The intent of the employee will be imputed to the corporation so long as the employee was acting to benefit the corporation (and the corporation itself was not the victim of the crime).

Corporations have been indicted for homicide and a wide variety of lesser offenses. In recent years, indictments for health and safety violations arising out of toxic waste disposal, failure to remove asbestos from buildings, and construction-site accidents multiplied dramatically.

The increase in criminal indictments of corporations has been matched by an increase in criminal indictments of corporate officials as well. Corporate officers will definitely be held liable for criminal acts they participate in or authorize. In addition, they will be held liable for acts which they aid and abet through any significant assistance or encouragement. Some courts find sufficient encouragement in mere acquiescence of a superior (which might signal tacit approval to a subordinate) and even in failure to stop criminal activity the official knows about. In rare instances corporate officers have been held criminally liable on a .strict liability basis because they failed to control the criminal acts of subordinates (even where they had been assured that the criminal acts had been stopped). In dicative of the recent trend toward increased liability is *People* v. *O'Neil,* in which a jury convicted three corporate officials of *murder* in the deaths of employees exposed to cyanide gas in the work place.

Vocabulary Notes

Entity – юридическое лицо; **indict** – обвинять в правонарушении; **indictment** – обвинительный акт; **convict** – признать виновным, приговорить, осужденный; **criminally liable** – ответственный в уголовном порядке; **err** – ошибаться; **embody** – воплощать; **violate** – нарушать; **disobey** – не подчиняться; **wrongdoer** – правонарушитель; impute – вменять в вину; **homicide** – убийство; **disposal** – удаление, избавление от чего-то; **abet** – подстрекать; **acquiescence** – молчаливое согласие; **acquiesce** – давать молчаливое согласие, уступать; **tacit approval** – молчаливое одобрение; **subordinate** – подчиненный; **failure** – невыполнение, утрата; **strict liability** – объективная ответственность.

Vocabulary practice

Fill in the gaps with prepositions translate the following phrases:

1. It was very rare for a corporation to be indicted ... or convicted ... a crime.

2. Corporations can be held criminally liable ... any acts performed ... an employee.

3.disobeying a specific order... a uperior

4. the intent… an employee will be imputed ... the corporation

5. the victim ... the crime

6. arising toxic waste disposal

7. Corporations have been indicted ... homicide.

8. liable … criminal acts they participate ...

9. find sufficient encouragement ... mere acquiescence of a superior

Speaking practice

What is your standpoint about being criminally liable on a strict liability. Use information from the text.

Before you read text 3D

Comment on the following

People are always blaming their circumstances for what they are. I don't believe in circumstances. The people who get on in this world are the people who get up and look for the circumstances they want, and, if they can't find them, make them. (George Bernard Shaw)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. Traditional (precomputer) state and federal laws are not necessarily

appropriate for prosecution of cases of computer crimes

2. Computer crimes can be divided mainly into two categories: theft of information and theft of funds.

3. Companies do not care of publicity about the inadequacy of their computer controls and financial institutions.

4. Only some states have passed laws dealing with computer crime.

5. There is no need to involve experts to suggest that the problem of computer crime has been overestimated.

B. Understanding details

Read text 3D and answer these questions.

1. What has the explosive growth in the use of computers in business brought with it?
2. Why wasn't the city employee who used the city's computer facilities for his private sales convicted of theft?
3. What are the three broad categories computer crimes fall into?
4. What do losses due to computer misuse include?
5. Why are many computer crimes never discovered or reported?
6. How many states of the USA have passed laws dealing with computer crime?
7. What is outlawed as far as computers are concerned?

Text 3D

COMPUTER CRIMES

The explosive growth in the use of computers in the business world in the past few years has brought with it a corresponding increase in computer misuse. Traditional (precomputer) state and federal laws applicable to such crimes as trespass and larceny are not necessarily appropriate for prosecution of cases of computer fraud and computer theft. For example, one court held that a city

employee's use of the city's computer facilities in his private sales venture could not support a theft conviction absent any evidence that the city was deprived of any part of value or use of the computer. In some cases, use of a computer has not been deemed «property» within traditional theft statutes.

Computer crimes fall mainly into three broad categories: simple unauthorized access, theft of information, and theft of funds. Among schemes that have been subjects of litigations are stealing a competitor's computer program; paying an accomplice to delete adverse information and insert favorable false information into the defendant's credit file; a bank's president having his account computer coded so that his checks would be removed and held rather than posted so he could later remove the actual checks without their being debited; and a disgruntled ex-employee's inserting a «virus» into his former employer's computer to destroy its records.

Some estimate that losses due to computer misuse may be as high as $ 35 to $ 40 billion per year (including thefts of funds, losses of computer programs and data, losses of trade secrets, and damage done to computer hardware). These estimates may not be reliable, but it is clear that a substantial amount of computer crime is never discovered and a high percentage of that which is discovered is never reported because companies do not want publicity about the inadequacy of their computer controls and financial institutions, such as banks, fear that reports of large losses of funds, even when insured, are likely to cause depositors to withdraw their funds in the interest of safety. Whatever the actual loss due to computer misuse, both Congress and the state legislatures have passed statutes to deal specifically with computer crime.

At least 45 states have passed laws dealing with computer crime. Most of the statutes comprehensively address the problem, outlawing computer trespass (unauthorized access); damage to computer hardware or software (e. g. use of «viruses»); theft or misappropriation of computer services, and unauthorized obtaining or disseminating of information via computer. There have been relatively few prosecutions under these state laws or the federal acts, leading

some experts to suggest that the problem of computer crime has been overestimated.

Vocabulary Notes

Explosive – взрывчатый, подобный взрыву; **applicable** – применимый; **trespass** – нарушение чужого права владения; **evidence** – доказательство; **deprive** – лишить; **deem** – считать, полагать; **litigation** – тяжба, гражданский судебный процесс; **accomplice** – сообщник, соучастник; **delete** – стереть; **insert** – внести, вставить; **disgruntled** – недовольный, рассерженный; **estimate** – оценивать; **legislature** – законодательный орган; **pass** – принять (закон); **comprehensively** – всесторонне, исчерпывающе; **address the problem** – заняться проблемой; **outlaw** – объявить вне закона; **misappropriation** – незаконное; завладение; **disseminating** – распространение; **prosecution** – обвинение, судебное преследование; **prosecutor** – обвинитель.

Vocabulary practice

Fill in the gaps with prepositions translate the following phrases:

1. that the city was deprived ... any part of value

2. insert favorable false information ... the defendant's credit file

3. losses due ... computer misuse

4losses ... computer programs and data

4. damage done ... computer hardware

5 publicity ... the inadequacy of their computer controls

6 to withdraw their funds ... the interest of safety

7 theft or misappropriation ... computer services

8 unauthorized obtaining or disseminating ... information ... computer

Speaking practice

Have you ever done shopping through the Internet? Share your impressions.

Before you read text 3E

Discuss if it is possible for a business firm to protect its computer information?

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. Bribery is only prevalent form of white-collar crimes.
2. Intent is a necessary key component of this crime.
3. The offeree is not found guilty of the crime of bribery when he or she accepts the bribe.
4. Modern penal codes also make it a crime to bribe officials.
5. Committing two different frauds wouldn't be considered a pattern.
6. Business-related crimes are also considered racketeering.

B. Understanding details

Read text 3E and answer these questions.

1. What is one of the most prevalent forms of white-collar crime?
2. What is usually offered as a bribe?
3. What does the term «public official» include?
4. What Act is RICO part of?
5. What does «enterprise» mean in the context of RICO?
6. What does «racketeering activity» consist of?
7. How can a «pattern of racketeering» be proved?

What is the penalty for RICO violations?

9. In cases when RICO provides for forfeiture of any property or business interests, does this include interests in a legitimate business?

TEXT 3E

BRIBERY AND RACKETEERING

Bribery is one of the most prevalent forms of white-collar crime. A bribe can be money, property, favors, or anything else of value. The crime of comercial bribery prohibits the payment of bribes of private persons and businesses. This type of bribe is often referred to as kickback or payoff. Intent is a necessary element of this crime. The offeror of a bribe commits the crime of bribery when the bribe is tendered. The offeree is guilty of the crime of bribery when he or she accepts the bribe. The offeror can be found liable for the crime of bribery even if the person to whom the bribe is offered rejects the bribe.

Consider this example: Harriet Landers is the purchasing agent for the ABC Corporation and is in charge of purchasing equipment to be used by the corporation. Neal Brown, the sales representative of a company that makes equipment that can be used by ABC Corporation, offers to pay her a 10 percent kickback if she buys equipment from him. She accepts the bribe and orders the equipment. Both parties are guilty of bribery.

At common law, the crime of bribery was defined as the giving or receiveing of anything of value in corrupt payment for an «official act» by a public official. Public officials include legislators, judges, jurors, witnesses at trial, administrative agency personnel, and other government officials. Modern penal codes also make it a crime to bribe public officials. For example, a developer who is constructing an apartment building cannot pay the building inspector to overlook a building code violation.

Racketeer Influenced and Corrupt Organizations Act (RICO). Organized crime has a pervasive influence on many parts of the American economy. In 1980, Congress enacted the Organized Crime Control Act. The Racketeer Influenced and Corrupt Organizations Act **(**RICO) is part of this Act. Originally, RICO was intended to apply only to organized crime. However, the broad language of the RICO statute has been used against nonorganized crime

defendants as well. RICO, which provides for both criminal and civil penalties, is one of the most important laws affecting business today.

RICO makes it a federal crime to acquire or maintain an interest in, use income from, or participate in the affairs of an «enterprise» through a «pattern of «racketeering activity». An «enterprise» is defined as a corporation, a partnership, a sole proprietorship, another business or organization, and the government. *Racketeering activity* consists of a number of specifically enumerated federal and state crimes, including such activities as gambling, arson, robbery, counterfeiting. dealing in narcotics, and such. Business-related crimes, such as bribery, embezzlement, mail fraud, wire fraud, securities fraud, and the like are also considered racketeering.

To prove a pattern of racketeering, at least two predicate' acts must be committed by the defendant within a ten-year period. For example, committing two different frauds would be considered a pattern. Individual defendants found criminally liable for RICO violations can be fined up to $25,000 per violation, imprisoned for up to 20 years, or both. In addition, RICO provides for the forfeiture of any property or business interests (even interests in a legitimate business) that were gained because of RICO violations. This provision allows the government to recover investments made with monies derived from racketeering activities. The government may also seek civil penalties for RICO violations. These include injunctions, orders of dissolution, reorganization of businesses, and the divestiture of the defendant's interest in an enterprise.

Vocabulary Notes

Prevalent – распространенный; **payoff** – вознаграждение, взятка; **offeror, offerer** – взяткодатель; **tender** – предлагать, предложение; **offeree** – тот, кому предлагают взятку; **common law** – общее право; **corrupt** – коррумпированный, подкупать; **witness at trial** – свидетель на суде; **public official** – гос. чиновник; **developer** – застройщик; **pervasive** – проникающий; **enact** – принимать (законы); **RICO – Racketeer** – государственный закон США, призванный преследовать организованную преступность; **racketeer**

– шантажист, вымогатель; **apply** – применяться; **language** – формулировка; **defendant** – ответчик; **provide for** – предусматривать; **penalty** – штраф, наказание; **affect** – влиять; **acquire** – приобретать; **pattern** – манера, образ, характер; **enumerate** – перечислять; **gambling** – азартные игры; **arson** – поджог; **robbery**–грабеж; с**ounterfeitin**g – фальшивомонетничество; **predicate acts** – вышеупомянутые действия; **forfeiture** – потеря, конфискация; **legitimate** – законный; **provision** –статья, оговорка, положение; **recover** – взыскать по суду; **monies** – денежные суммы; **derive** – извлекать, получать; **injunction** – судебный запрет; **dissolution** – ликвидация, роспуск; **divest** – лишить права собственности, полномочий; **divestiture** – лишение (прав).

Vocabulary practice

Fill in the gaps with prepositions translate the following phrases:

1.anything else ... value

2.be found liable ... the crime … bribery

3.in charge ... purchasing equipment

4.if she buys equipment... him

5.Both parties are guilty ... bribery.

6.the giving or receiving ... anything ... value

7in corrupt payment ... an wofficial act» ... a public official

8.was intended to apply only ... organized crime

9. is one … the most important laws

10. dealing ... narcotics

1 I . committed ... the defendant... a ten year period

12. provides ... the forfeiture ... any property

13. civil penalties … RICO violations

Speaking practice

What are the most effective measures to combat bribery.

Before you read text 3F

Comment on the following

Petty laws breed great crimes.

Pipistrello (1880)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. There is no value in a person's reputation.
2. There is no special name for an oral defamatory statement.
3. A false statement that appears in a letter, magazine, book, photograph, movie, video, and the like is called *slander*.
4. The publication of an untrue statement of fact is the same as the publication of an opinion.
5. Falsely attributing beliefs or acts to another can also be a basis of a lawsuit.

B. Understanding details

Read text 3F and answer these questions.

1. How can a person's reputation be protected?
2. If a plaintiff sues somebody for defamation of character, what must he prove?
3. What does «publication of an untrue statement» mean in this case?
4. What is the name for an oral defamatory statement?
5. What is libel?
6. What examples of invasion of the right to privacy are given in the text?
7. Why is the truth not a defense to a charge of invasion of privacy?
8. In what cases can public officials recover for defamation?
9. What are public figures?

TEXT 3F

TORTS

A person's reputation is a valuable asset. Therefore, every person is protected from false statements made by others during his or her lifetime. This protection ends upon a person's death. The tort of defamation of character requires a plaintiff to prove that the defendant made an untrue statement of fact about the plaintiff and the statement was intentionally or accidentally published to a third party. In this context, publication simply means that a third person heard or saw the untrue statement. It does not just mean appearance in newspapers, magazines, or books. The name for an oral defamatory statement is slander. A false statement that appears in a letter, magazine, book, photograph, movie, video, and the like is called *libel*. Most courts hold that defamatory statements in radio and television broadcasts are considered libel because of the permanency of the media.

The publication of an untrue statement of fact is not the same as the publication of an opinion. The publication of opinions is usually not actionable. Since defamation is defined as an untrue statement of fact, truth is an absolute defense to a charge of defamation.

The law recognizes each person's right to live his or her life without being subjected to unwarranted and undesired publicity. A violation of this right constitutes the tort of invasion of the right to privacy. Examples of this tort include reading someone else's mail, wiretapping, and such. Publication to a third person is necessary. In contrast to defamation, the fact does not have to be untrue. Therefore, truth is not a defense to a charge of invasion of privacy. If the fact is public information, there is no claim to privacy. However, the fact that was once public (e. g., the commission of a crime) may become private after the passage of time.

Placing someone in a «false light» constitutes an invasion of privacy.

For example, sending an objectionable telegram to a third party and signing another's name would place a purported sender in a false light in the eyes of the receiver. Falsely attributing beliefs or acts to another can also form a basis of a lawsuit.

In New York Times Co. v. Sullivan, the U. S. Supreme Court held that public officials cannot recover for defamation unless they can prove that the defendant acted with «actual malice». Actual malice means that the defendant made the false statement knowingly or with reckless disregard of its falsity. This requirement has since been extended to public figure plaintiffs such as movie stars, sports personalities, and other celebrities.

Vocabulary Notes

Tort – правонарушение; **defamation of** – клевета, посягательство на; **character** – честь и достоинство; **asset** – имущество; **plaintiff** – истец; **defame** – порочить, клеветать; **slander** – клевета устная; **slanderer**- клеветник; **libel** – клевета письменная; **libeler** – клеветник, пасквилянт; **hold** – признавать, решать; **permanency** – постоянство, непреходящая ценность; **actionable** – дающий право на иск; **actionability** – исковая сила; **charge** – обвинять, обвинение; **invasion of the right to** – нарушение права на частную жизнь; **privacy** – неприкосновенность частной жизни; **invasion** – вторжение, посягательство; **subject** – подвергать, покорять; **unwarranted** – необоснованный, неуполномоченный; **publicity** – гласность, известность; **wiretapping** – подслушивание телефонных разговоров; **commission** – соершение; **objectionable** – неприятный, нежелательный; **purport** – претендовать; **attribute** – приписывать; **public official** – государственное должностное лицо; **recover** – получать возмещение по суду; **recovery** – взыскание в судебном порядке; **malice** – злой умысел; **malicious** – умышленный, злонамеренный; **reckless disregard** – безответное пренебрежение; **falsity** – недостоверность, ложь; **public figure** – общественный деятель.

Vocabulary practice

Fill in the gaps with prepositions translate the following phrases:

1. is protected … false statements
2. an untrue statement... fact... the plaintiff
3. a false statement that appears ... a letter, newspaper or magazine
4. .defamatory statements ... radio and television broadcasts
5. the publication ... opinions
6. without being subjected ... unwarranted and undesired publicity
7. invasion of the right … privacy
8. a defense ... a charge of invasion of privacy
9. after the passage ... time
10. 15to place the purported sender... a false light
11. with reckless disregard ... its falsity

Speaking practice

Give a summary of the text using the questions given in reading tasks as a plan.

Before you read text 3G

Comment on the following

Society prepares the crime; the criminal commits it. (H. Buckle)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. Interference with an owner's right to exclusive possession of land is one of the common types of torts.
2. Unauthorized use of another person's land is trespass even if the owner is not using it.
3. The injured party can’t sue for damages.
4. Under the doctrine of unintentional tort, commonly referred to as negligence, a person is liable for harm that is the foreseeable consequence of his or her actions.

B. Understanding details

Read text 3G and answer these questions.

1. What is trespass to land?
2. If someone enters another person's land but does no harm to it, is it considered trespass to land?
3. If someone enters another's land «with good reason», what is considered «good reason»?
4. What example of trespass to personal property is given in the text?
5. In case of conversion of personal property what can the rightful owner do to recover the property?
6. When does conversion of personal property occur?
7. How is unintentional tort commonly referred to?
8. If someone files a lawsuit for negligence what must he or she prove?

TEXT 3G

TRESPASS TO LAND

Interference with an owner's right to exclusive possession of land constitutes a tort of trespass to land. There does not have to be any interference with the owner's use or enjoyment of the land; the ownership itself is what counts. Thus, unauthorized use of another person's land is trespass even if the owner is not using it. Actual harm to the property is not necessary. Examples of trespass to land include entering another person's land without permission, remaining on the land of another after permission to do so has expired (e. g., a guest refuses to leave), or causing something or someone to enter another's land (e. g., one person builds a dam that causes another person's land to flood). A person who is pushed onto another's land or enters that land with good reason is not liable for trespass. For example, a person may enter onto another person's land to save a child or a pet from harm.

Trespass and Conversion of Personal Property. The tort of trespass to personal property occurs whenever one person injures another person's personal property or interferes with that person's enjoyment of his or her personal property. The injured party can sue for damages. For example, breaking another's car window is trespass to personal property. Depriving a true owner of the use and enjoyment of his or her personal property and exercising ownership rights over it constitutes the tort of conversion of personal property. Conversion also occurs when someone who originnally is given possession of personal property fails to return it (e. g., fails to return a borrowed car). The rightful owner can sue to recover the property. If the property was lost or destroyed, the owner can sue to recover its value. Under the doctrine of unintentional tort, commonly referred to as negligence, a person is liable for harm that is the foreseeable consequence of his or her actions. Negligence is defined as «the omission to do something which a reasonable man would do, or doing something which a prudent and reasonable man would not do». Consider this example: A driver who causes an automobile accident because he fell asleep at the wheel is liable for any resulting injuries caused by his negligence. To be successful in a negligence lawsuit, the plaintiff should prove that the defendant owed a duty of care to the plaintiff; the defendant breached his duty of care; the plaintiff suffered injury; and the defendant's negligent act caused the plaintiffs injury.

Vocabulary Notes

Interference – вмешательство, помеха; **possession** – владение; **trespass to land** – нарушение чужого права владения землей / недвижимостью; **cause** – причинять, вызывать; **dam** – плотина, запруда; **flood** – затопить, наводнение; **conversion** – присвоение; **personal property** – движимое имущество;**injure** – причинить вред., ранить; **interfere** мешать вмешиваться; **sue** – предъявлять иск; **damages** – компенсация убытков; **deprive** – лишать; **rightful** – законный правомерный; **recover** – получить возмещение по суду; **unintentional** – непреднамеренный, неумышленный; **negligence** – небрежность, халатность;

foreseeable – предвидимый; **consequence** – последствия; **omission** упущение; **prudent** – благоразумный, осторожный**; injury** – вред, телесное повреждение; **negligence lawsuit** – судебный иск в связи с небрежностью, дело о халатности.

Vocabulary practice

Fill in the gaps with prepositions translate the following phrases:

1. interference … an owner's right... exclusive possession ... land
2. actual harm ... the property
3. remaining ... the land of another
4. the injured party can sue ... damages
5. trespass … personal property
6. depriving a true owner … the use and enjoyment ... his or her personal property
7. conversion ... personal property
8. to be successful .. a negligence lawsuit

Speaking practice

Give some examples of trespass to land and tell about Conversion of Personal Property.

UNIT 4

COMPETITOR AND EMPLOYEE RELATION

Before you read text 4A

Comment on the following

Written laws are like spiders' webs, and will like them only entangle and hold the poor and weak, while the rich and powerful will easily break through them. (Anacharsis, to Solon when writing his laws)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. The firm' activity is controlled by federal and state laws

2. The firm can seek new regulations that would require additional warnings.

3. The celebrity like the product's manufacturer is liable for resulting damages to buyers.

4. Federal Trade Commission standards deals with claims for truth in advertising.

B. Understanding details

Read text 4A and answer these questions.

1. What is business competition limited by?

2. Where should disclaimers about the product be made?

3.What are the purposes of packaging?

4. How can truth in advertising be secured?

5. Who has the authority to require corrective advertising?

6. How does the Federal Trade Commission carry out its functions

Concerning corrective advertising?

7. What conditions must be met if a firm has a celebrity endorse a product?

8. In what cases can the celebrity be held liable for resulting damage to buyers through a product the celebrity endorses?

TEXT 4A

THE LAW OF COMPETITION

The way a firm operates its sales force and markets its products and / or services is controlled by federal and state laws. These laws limit the types of acceptable business competition. Warnings is a part of Descriptions. The entire product packaging may need to be reviewed for express warranties and the presence of sufficient product liability instructions and warnings. If any disclaimers about the

product are to bewade, they should be made on the literature and / or in the ads to prevent future claims. Child-proof labels and warnings are not just part of the product packaging but are the means of product liability prevention. For example, many firms are beginning to put warnings on household products that may pose a risk of long-term health threats. Artists' products such as glazes and paints now carry warnings about potential damage to the nervous system and possible causation of birth defects, for example (Meier, 1985). The purpose of packaging is no longer simply to make a product attractive. It must now also provide sufficient warnings and instructions to avoid product liability suits. It may no longer be enough to state that a product should be used with adequate ventilation. One may need to explain that «adequate ventilation» means the use of exhaust fans, open windows or both.

Truth in Advertising. In addition to having liability for warranties, businesses that make advertising claims must be sure that those claims meet Federal Trade Commission standards for truth in advertising. The FTC has the authority to require corrective advertising when claims made in ads turn out to be incorrect and can apply powerful sanctions if changes are not made. Since both corrective advertising and imposed sanctions are expensive, in terms of both money and image, it is important to «get it right the first time» with ad claims. Claims that are not actually false but are held to be deceptive or misleading can also draw FTC ire. For example, the FTC came down hard on the manufacturer of the antiacne acne medication Acne-Statin because ads for the product claimed that it was a «cure» for acne. The FTC felt it was more appropriate to say that the product helped significantly but, as yet, there was no cure for acne. FTC requirements are another reason why in-house or expert counsel should review all advertisements before they are run. Some states already require warnings on products that may present chronic health hazards. Where this is not the case, private groups such as the Consumer Federation of America are seeking new regulations that would require such additional warnings. Firms would be wise to accede to these demands even before they become law, since either the regulations will eventually go into effect

anyway or the industry will be forced to demonstrate that it does not need regulation.

Celebrity Endorsements. If a firm chooses to have a celebrity endorse a product, it must make sure that several conditions are met. First, the celebrity must have actually used or tried the product. Second, the advertisements must reveal that the celebrity is being paid to endorse the product. The firm may also want to have the celebrity agree to use the product exclusively for a period of time and to sign a statement of understanding regarding potential liability. The celebrity should be made aware that if he or she knowingly makes inaccurate or incorrect statement about the product, the celebrity as well as the product's manufacturer can be held liable for resulting damages to buyers. In the Acne-Statin case, celebrity Pan Boone experienced personal liability for his and his family's endorsements of the product.

Vocabulary Notes

Review – пересматривать; **express warranty** – явно выраженная гарантия; **disclaimer** – непризнание, отказ; **child-proof** – безопасный для ребенка; **household products** – хозяйственные товары; **pose** – представлять собой; **causation** – причинение; **exhaust fan** – вытяжной вентилятор; **corrective advertising** – поправки к рекламе; **impose** – налагать; **in terms of** – в смысле, в пересчете на; **ad claims** – утверждения, содержащиеся в рекламе; **deceptive** – обманчивый; **misleading** – вводящий в заблуждение; **ire** – гнев; **anti-acne medication** – средство против угревой сыпи; **cure** – излечение, излечивать; **accede** – присоединяться, соглашаться; **eventually** – в конце концов; **celebrity** – знаменитость; **endorse** – рекомендовать (товар); **endorsement** – одобрение, поддержка; **reveal** – обнародовать; **understanding** – подразумеваемое соглашение; **make aware** – довести до сведения; **inaccurate** – неточный.

Vocabulary practice

Fill in the gaps with prepositions translate the following phrases:

1. may be sometimes hard ... the individual

2. the survival ... the fittest

3. any disclaimers ... a product

4.Child-proof labels and warnings are not just part... the product packaging-

5.a means ... product liability prevention

6.a risk ... long-term health threats

9..in terms ... both money and image

10..ads ... the product

11. to accede ... these demands

12. The regulations will eventually go ... effect

13. use the product exclusively ... a period ... time

14. a statement of understanding ... potential liability

15. be held liable ... resulting damage ... buyers

Speaking practice

Give a summary of the text using the questions given in reading tasks as a plan.

Before you read text 4B

Comment on the following

Morality cannot be legislated but behavior can be regulated. Judicial decrees may not change the heart, but they can restrain the heartless. (Dr. Martin Luther King)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. There is only one basic type of antitrust violation that sales forces are likely to commit.

2. Firms shouldn't be sured that salespeople are aware of violations and prepared to avoid them before any marketing plan is begun.

3. The price set is generally a subject of antitrust litigation.

4. Sellers can charge any price they can afford as long as the charges are uniform.

B. Understanding details

Read text 4B and answer these questions.

1. How many basic types of antitrust violations are described in the text?

2. What is price discrimination?

3. Can you give an example of volume discount?

4. When do low prices raise questions?

5. Is pricing below the market or below cost necessarily anticompetitive?

6. If one customer was given a discount for a certain size of order while the other was not, will price discrimination charges hold?

7. Why is tying one product to another often done by sales forces?

8. What is the adverse effect of tying one product to another in order to get market control?

9. Why do salespeople occasionally divide the market geographically?

10. What does this technique deny customers?

TEXT 4 B

SELLING

Anticompetitive behavior. The zeal of employees for selling a new product is a great benefit to a company. Occasionally, and often unwittingly, however, that zeal turns into anticompetitive activity that can result in antitrust law violations. Such violations produce both legal costs and damage to the firm's reputation with regulators responsible for policing anticompetitive behavior, such as the Justice Department and the FTC.

There are three basic types of antitrust violations that sales forces are likely to commit. Firms should make sure that salespeople are aware of these violations and prepared to avoid them before any marketing plan is begun.

Price Discrimination and Ruinous Competition. One antitrust violation is price discrimination. Price discrimination is the charging of different prices to different purchasers without any relation to differences in marginal cost per unit. In other words, volume discounts are all right, but the discounts must be the same for all buyers and not different according to the buyer. Thus, a manufacturer can charge $1.00 per unit for orders between 1 and 1,000 and $.80 per unit for orders between 1,000 and 5,000 but cannot charge one buyer $.80 per unit for orders up to 1,000 while holding other buyers to the uniform scale. The price set is generally not a subject of antitrust litigation. That is, sellers can charge any price they can afford as long as the charges are uniform. The only time such low prices raise questions is when a firm has monopoly power and upon entry into the market with a new product attempts to take control of the new product line by subsidizing its new efforts with its monopoly from its previous market entries. For example, if a manufacturer that controlled 65 percent of the canned vegetable market entered the frozen vegetable market and underpriced its frozen offerings to gain control of the new market while making up its losses through its substantial market in canned vegetables, it might be committing an antitrust violation by Indulging in «ruinous competitions

One of the methods used to get companies to try a new product is paid discounts. Once the product is tried and brings a satisfied customer, the company has made its inroads and can continue with a more normal price structure. Pricing below the market or below cost is not necessarily anticompetitive in and of itself A firm must have some monopoly power in order for there to be a violation Price discrimination charges will hold only if it can be established that one customer was given a price break for a certain size order while the other was not.

Tyins. A second type of antitrust violation that sales forces often get caught in is tying one product to another in order to gain market control. For example, salespeople might agree to sell tires at a special low price to a dealer if the dealer agreed to carry only that firm's new line of hub caps. Such «tying» is held to prevent the dealer from making effective choices about what product lines

to offer and thus to deny the public the opportunity of putting market forces to work on the «tied» product.

Tying violations occur only when a company offers to sell one of its products at a lower price if the purchaser will try a new product. The company offering the tying arrangement must be able to control prices or exclude competition for this type of conduct to be illegal.

Dividing the Market. A third type of anticompetitive behavior sometimes used by salespeople is dividing the market. Occasionally salespeople from different firms realize that no one of their companies can effectively corner the market and that by competing, the sales forces are simply making more work for themselves and each other. They then agree to divide the market geographically and not to compete in each other's areas for sales. This technique, too, denies customers the opportunity to put market forces to work. Such conduct violates the law, and firms are liable for it even if management did not know of the arrangement.

Vocabulary Notes

Zeal – рвение; unwittingly – нечаянно, непреднамеренно; **Justice Department** – министерство юстиции; **FTC** - Federal Trade Commission – федеральная торговая комиссия; ruinous – разорительный, губительный; **charging** – взимание; **marginal cost** – предельная стоимость; **volume discount** – скидка на большой объем товара; **uniform scale** – единая шкала; **monopoly power** – монопольное воздействие; **market entry** – выпускаемый на рынок продукт; **underprice** – установить цену, не покрывающую себестоимость; **make up** – возмещать, наверстывать; **commit** – совершать; **indulge in something** – позволять, потворствовать; **inroad** – вторжение; **charge** – обвинение; **price break** – снижение цены; **tying** – навязывание ассортимента; **carry** – иметь в продаже; **hub cap** – диск колеса; **corner the market** – монополизировать рынок.

Vocabulary practice

Fill in the gaps with prepositions translate the following phrases:

1. the zeal of employees ... selling a new product
2. That zeal turns ... anticompetitive activity.
3. damage ... the firm's reputation ... regulators responsible for policing anti competitive behavior
4. the charging ... different prices ... different purchasers
5. The discounts must be the same ... all buyers.
6. not a subject ... antitrust litigation
7. ... entry into the market with a new product
8. to gain control ... the new market
9. pricing ... the market or... cost
10. One customer was given a price break ... a certain size order.
11. tying one product ... another
12. to sell tires ... a special low price
13. making effective choices ... what product lines to offer
14. the opportunity ... putting market forces to work
15. no one ... their companies
16. not to compete ... each other's areas for sales

Speaking practice

Give a summary of the text using the questions given in reading tasks as a plan.

Before you read text 4C

Comment on the following

Where law ends, there tyranny begins. (1st Earl of Chatham, William Pitt)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. Businesses must maintain good relationships with competitors for legal and ethical reasons.
2. Ther are no any professional or trade organizations for employees.
3. It’s impossible to prevent unfair competition
4. Courts enforce international patent and copyright infringement rules.

B. Understanding details

Read text 4C and answer these questions.

1. How do counterfeit goods harm the designer label «real things?
2. How can such unfair competition be prevented?
3. What is courts' attitude towards enforcing international patent and copyright infringement rules?
4. Why is competition from former employees especially dangerous?
5. What restrictions must be included in an employment agreement in this connection?
6. How many types of such restrictions are mentioned in the text?
What are they?
7. What is the best way of preventing competition from former employees?

TEXT 4C

RELATION WITH COMPETITORS

Businesses must maintain good relationships with competitors for legal as well as ethical reasons. Professional and trade organizations, international competition, and competition from fqrmer employees all present special legal problems in the area of competitor relations.

Professional and Trade Organizations. Many employees belong to

professional or trade organizations. At meetings of these organizations, members naturally discuss their work. Such discussions may include information about members' firms, their customers, and even the prices charged to customers. This exchange of information, particularly about matters relating to price, can result in antitrust violations, as the Supreme Court discussed in a case involving an exchange of information about credit terms (Catalano Inc. v. Target Sales, Inc.,1980).

Discussions at organization meetings can also provide tempting opportunities for the kind of illegal territory division arrangements discussed earlier.

International Competition. Currently, many American firms are experiencing problems with counterfeit goods - the so-called «knock-off» trade. These goods are produced in sweatshops in third-world countries and then sold in the United States in direct competition with the designer-label «real thing» (O'Donnel, 1985). Such unfair competition cannot be completely prevented, but registering patents, trademarks, copyrights, and so on in other countries helps to provide a basis for litigation or a request to stop production. Courts are better enforcing international patent and copyright infringement rules than they been in the past.

Competition from Former Employees. A business can face some of its stiffest competition from former employees who start their own businesses or go to work for a competitor. When they take such action, it is generally necessary pursue legal action in the form of an injunction. As discussed earlier, however this type of legal strategy is reactive and often produces little except years of litigation. A proactive approach requires a firm to put no competition or competition litigation clauses in an employee's contract at the time of hiring. These types of restrictions on employees' future work are considered legally valid if they are I reasonable in time and geographic scope. For example, a high technology firm, I would want a broad (worldwide) geographic restriction but could not have a I lengthy time restriction because technology is so quickly outdated. A firm dependent upon

customer goodwill, on the other hand, might want a geographic restriction more than a time restriction because a new business formed by a former employee that operates in the same area might create a loss of business- I potentially all of the clients that employee handled.

Many firms have realized that even with such «no-competition» clauses, employees can and will still form new businesses. Rather than trying to enforce | the clauses through litigation, some firms, particularly those in high technology,1 offer employee entrepreneurial programs. Under such a program, the firm offers to finance or incubate employees ideas whether or not the ideas are derived from their work. The employees are thus able to start a business with financial backing and business expertise, and the employer shares in the new company's profits if the business takes off. Companies with these programs, in essence, invest in the employees' ability to become successful instead of challenging their right to do so. The solution is a classic preventive legal strategy and sets up a win-win solution for both employer and employee.

Vocabulary Notes

Credit terms – условия кредитования; **tempting** – соблазнительный; **counterfeit** – подделка, подделывать; **«knock off» trade** – торговля дешевым товаром, производимым без лицензии; **sweatshop** – мастерская с тяжелыми условиями и низкой оплатой труда; **unfair** – несправедливый; **copyright** – авторское право; **infringement** – нарушение; **stiff** – жесткий, ожесточенный, упорный; **pursue legal action** – подать иск в суд; **injunction** – судебный запрет; **reactive** – реагирующий; **proactive** – предусмотрительный, предупредительный; **approach** – подход, решение; **no-competition clause** – статья, запрещающая конкуренцию; **competition litigation clause** – статья, предусматривающая судебное преследование за конкуренцию; **restriction** – ограничение; **outdated** – устаревший; **goodwill** – благорасположение, нематериальные элементы предприятия; **enforce** – принудительно

осуществить; **incubate** – выращивать; **derive** – извлекать; **financial backing** – финансовая помощь; **expertise** – специальные знания; **take off** – взлететь, взять старт; **in essence** – по сути; **challenge** – оспаривать, подвергать сомнению, бросать вызов.

Vocabulary practice

Fill in the gaps with prepositions translate the following phrases:

1. good relationships ... competitors ... legal as well as ethical reasons
2. belong ... professional or trade organizations
3. information ... members' firms
4. the prices charged ... the customers
5. exchange ... information
6. problems ... counterfeit goods
7. some ... its stiffest competition
8. go to work ... a competitor
9. to put a no-competition clause ... an employee's contract
10. a firm dependent... customer goodwill
11. a loss ... business
12. to enforce the clauses ... litigation
13. whether or not the ideas are derived ... their work
14. to start a business … financial backing

Speaking practice

Give a summary of the text using the questions given in reading tasks as a plan.

Before you read text 4D

Comment on the following

Man became free when he recognized that he was subject to law. (William James (Will) Durant)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. Equal Employment Opportunity (EEO) deals with legal problems in the area of employee relations.

2. There are not many forms of discrimination suits.

3. The courts have greatly changed their views of an employer's right to dismiss employees.

4.All individuals have a right to either seek a job or hold a job currently occupied.

B. Understanding details

Read text 4D and answer these questions.

1. Why are Equal Employment Opportunity suits very frequent?

2. What categories of people do EEO suits usually involve?3. In what departments can female managers be found?

4. Can you give any examples of age discrimination in employment in Russia now?

5.What has changed in the sphere of an employer's right to discharge employees?

6. How could a manager fire an employee in the past?

8. What right does the employee have now?

9. Which state was the first to pass legislation protecting the right to employment?

TEXT 4D

EQUAL EMPLOYMENT OPPORTUNITY

When many managers are asked to think of legal problems in the area of employee relations, they think almost exclusively of Equal Employment Opportunity (EEO) suits of one kind or another. Although other forms of employee

relations suits exist, EEO suits will continue to be the biggest growth area for legal actions unless managers begin to handle personnel practices more effecttively.

Discrimination suits come in many forms. The best known kinds involve women and minorities. Many complacent employers think they now have these licked, but they are usually wrong. Certainly, these companies now have female managers - usually in personnel and public relations, well known as the business world's «velvet» or «pink collar» ghettos. The firms no doubt also have affirmative action officers, naturally members of some minority or protected class. They may even have a showy affirmative action program, complete with posters on the walls and promotional statements in bold print in advertisements for employment.

Unfortunately, none of these forms of window dressing really protects a company from EEO suits. Less «traditional» EEO suits are likely to make increasing trouble in the future. The courts in the last few years have greatly changed their views of an employer's right to discharge employees. In the past, a manager could fjre an employee «at will»s for any reason - a good reason, a bad reason, or no reason at all The right to fire at will, however, has now almost completely metamorphosed into its opposite number, the employee's right to a job. California in 1980 became the first state to pass legislation protecting the (right to Employment).Curtailing the Freedom Since then, the number of states that have used either legislation or case law to partly or completely abridge an organization's right to fire at will has changed on a yearly, if not a monthly basis. The prevailing view at this time is clearly that all individuals have a right to either seek a job or, in most locales, hold a job currently occupied.

Vocabulary Notes

Inevitable – неизбежный; **EEO complaint** – жалоба, в связи с законом оравных правах при приеме на работу; **damages** – возмещение убытков, **plaintiff** – истец; **complacent** – самодовольный; **complacency** – самодовольство; **lick** – преодолеть с легкостью, побить; s**howy** – эффектный,

броский, показной, хвастливый; **affirmative** – положительный; **affirmative action program** – программа позитивных действий; **poster** – плакат; **promotional statement** – рекламное заявление; **window dressing** – оформление / украшение витрины; **predict** – предсказывать; **discharge** – увольнять, увольнение; **at will** – по своему желанию, в любой мере и в любое время; **legislation** – аконодательство; **case law** – прецедентное право; **abridge** – урезывать; **prevailing** – преобладающий; locale – местность; **wrongful** – противозаконный, неправомерный**; federal district court** – федеральный районный суд (федеральный суд первой инстанции в США); **unjust** – несправедливый; **surface** – всплыть на поверхность; поверхность.

Vocabulary practice

Fill in the gaps with prepositions:

1. although other forms ... employee relations suits exist
2. the last year... which data are available
3. usually ... personnel and public relations
5. members ... some minorities or protected class
6. complete ... posters on the walls
7. promotional statements ... bold print... advertisements for employment
8. are likely to make increasing trouble ... the future
9. suits filed ... provisions of the Age Discrimination in Employment Act
10. their view ... an employer's right to discharge employees
11. the employee's right... ajob

Speaking practice

Give a summary of the text using the questions given in reading tasks as a plan.

Before you read text 4E

Comment on the following

When men are pure, laws are useless; when men are corrupt, laws are broken. (Benjamin Disraeli, 1st Earl of Beaconsfield)

Reading tasks

A. Understanding main points

Say, whether these statements are true or false.

1. Employees often pursue potentially costly wrongful discharge suits.
2. Legal experts advise that personnel manuals should be written to exclude contractual implications.
3. Employee relations lawsuits are not of personnel manuals, but for the products of bad management,
4. Defamation of character suits never go along with suits for wrongful discharge.

B. Understanding details

Read text 4E and answer these questions.

1. Who vigorously pursues wrongful discharge suits?
2. How do many companies try to limit an employee's right to employment?
3. What kind of suits often go along with suits for wrongful discharge?
4. What do other popular suits relate to?
5. What is the forecast made in the text concerning paternal leave?
6. Why are employees and society demanding and getting official guarantees of fairness in personnel procedures?
7. In what plans do employee have long-term investments?
8. Is it right to say that business organizations in Russia are extended families?
9. What does employment provide an individual with?

TEXT 4E

WRONGFUL DISCHARGE

Unlike civil rights cases, which have not been pursued vigorously by the Reagan Administration, employees often vigorously pursue potentially costly wrongful discharge suits. Awarded damages for wrongful discharge in a single suit have reached as high as $4.5 million («It's Getting Harder ...» 1983). Although this award was overruled by the judge as excessive, awards exceeding $500,000 are quite common.

As with EEO suits, these suits cannot be avoided by half-hearted measures. Many companies these days have boilerplate text in the front of their personnel manuals that says something like, «No part of this manual is intended to Imply that an employee has a right to or is guaranteed employment at XYZ Corporation.)) Such phrases are as useless as the management rights clauses frequently written into labor contracts in the 1950 s, which not only failed to protect management but were often used by unions for their own ends. Courts have usually held that use of the manual represents a contract by implication. Some «experts» advise that personnel manuals should be written to exclude contractual implications. Such advice may be sound legally but defeats the purpose of having a personnel manual at all. Employee relations lawsuits are the products of bad management, not of personnel manuals.

Defamation of character suits often go along with suits for wrongful discharge. Approximately one-third of all defamation of character suits filed nationwide in the last few years were filed by discharged employees against their former employers (Torsone, 1987). The average defamation suit associated with wrongful discharge is estimated by executives at TRW, Inc. to cost $140,000 to $250,000 in defense expenses alone (Stricharchuk, 1986). These types of employee relations suits are only the most prominent ones. The litigation process can be extended to cover more and more identifiable groups of individuals and to offer them a degree of legal protection heretofore unknown. Other popular suit

categories relate to occupational health and safety hazards, unfair labor practices, sexual harassment (one female employee pursued her case clear to the Supreme Court- and was victorious), and wage and hour violations. The entire spectrum of legal actions in the area of employee relations has become a growth area for attorneys, whether they represent employee plain tiffs or organizational defendants. Even more rights are likely to be granted to employees in the near future. Almost surely large employers soon will be required by federal law to grant up to ten weeks of paternal leave, for example («Paternal Leave,» 1987). In addition, companies in the near future probably will be mandated to establish procedures to ensure employees due process for any personnel action. It is not really surprising that employees and society are demanding- and getting- official guarantees of fairness in personnel procedures. To begin with, employees have long-term investments in things like pension plans and seniority rights. Furthermore, as many sociologists have pointed out, business organizations are the extended families of the late twentieth century. To be ostracized from one's extended family by what is perceived as an unfair action is bound to raise serious resentment. Finally, employment provides an individual not only with in come but with two other fundamental needs, security and status. There are, indeed, few other ways of fulfilling these needs in American culture. Given the combination of practical and emotional threats that firing represents, it is only natural that employees will react strongly to it, even to the extent of seeking legal redress – and that juries are likely to support them when they do (Stricharchuk, 1986). Demands for fairness in personnel practices are not even really new. They exist in, and probably predate, the first known personnel manual, Hammurabi's Code, written around the twentieth century B. C. The only new thing is the increased power of society and of individual employees to see that their demands for fairness are enforced. In short, management today cannot take job rights lightly without risking serious legal consequences. There are few areas in which managerial complacency is more frightening to the legal strategist. No strategic plan, certainly no merely cosmetic one, can protect a firm completely from employee relations lawsuits.

Vocabulary Notes

Case – судебное дело, судебный прецедент; **pursue a case** – искать в суде, подать иск, стремиться выиграть дело; **vigorously** – энергично; **award** – присуждать, присуждение; **overrule** – отменять**;** **excessive** – чрезмерный; **exceed** – превышать; **half-hearted measure** – полумера; **boilerplate** – шаблонный, стандартный; **personnel manual** – руководство для персонала, кадровая инструкция; **imply** – подразумевать; **implication** – скрытый смысл; **by implication** – косвенно, в порядке презумпции; **end** – цель; **hold** – признавать, считать; contract by **implication** – подразумеваемый договор, конклюдентный договор, договор на основе конклюдентных действий; **contractual implication** – подразумеваемый контракт; **sound** – здравый; defeat – срывать, аннулировать, наносить поражение; **defamation** – диффамация, клевета; **defamation of character suit** – иск в защиту чести и достоинства (репутации); **nationwide** – по всей стране; **defense** – защита; **prominent** – заметный, явный; **identify** – опознавать, отождествлять, устанавливать; **identifiable** – опознаваемый, поддающийся опознанию, выделяемый; **heretofore** – прежде, до сих пор; **hazard** – риск, опасность; **sexual harassments** – сексуальные домогательства; **Supreme Court** – Верховный Суд; **hour violation** – нарушение режима работы; **defendant** – ответчик, подзащитный; **paternal leave** – отпуск в связи с отцовством**;** **mandate** – приказывать, требовать; **due** – должный, достаточный; **process** – процедура, процессуальные нормы; **personnel action** – иск(и) в связи с трудовыми отношениями; **fairness** – справедливость; **seniority** – трудовой стаж, старшинство; **ostracize** – изгнать; **perceive** – воспринимать, понимать; **unfair** – несправедливый; **resentment** – возмущение; **security** – безопасность, уверенность (в будущем); **threat** – угроза; **redress** – удовлетворение, возмещение; **predate** – произойти до какой-то даты; **enforce** - принудительно осуществить; **merely** – просто, всего лишь.

Vocabulary practice

Fill in the gaps with prepositions:

I. This award was overruled ... the judge as excessive.

2. in the front ... their personnel manuals m

3. use … the manual

4. defamation ... character suits

5. suits ... wrongful discharge

6. filed ... discharged employees ... their former employers

7. relate ... occupational health and safety hazards

8. due process ... any personnel action

9. official guarantees... fairness in personnel procedures

10. to be ostracized ... one's extended family

11. provides an individual not only ... income

12. the increased power ... society

13. cannot take job rights lightly ... risking serious legal consequences

Speaking practice

Give a summary of the text using the questions given in reading tasks as a plan.

PART 2

CRIMINAL LAW

U N I T 1
CRIMINAL LAW

Before you read text 1A

Comment on the following

In the USA, a majority of the people supports capital punishment and vote for those politicians that take a strong stand against crime.

- An eye for an eye!
- Society should not have to pay for someone so dangerous that they can never return to live around normal people.
- The threat of execution is enough to make criminals think twice about committing a capital crime.

Those who oppose the death penalty argue their position with statements such as:

- Although the act of murder is horrific and inexcusable, executing the killer does nothing to bring the person back.
- It often costs more to execute a criminal than it would to keep him/her alive in jail.

Reading tasks

A. Understanding main points

Read text 1A and answer these questions.

1. What is a crime?

2. What are common law crimes?
3. What does Criminal Law involve?
4. What are four theories of criminal justice?
5. Who acts on behalf of the government bringing the case against an accused?
6. How can society achieve justice?
7. Who initiates the suit in a criminal case?
8. Whose jurisdiction is to represent people in a court?
9. What are two main types of the crime according to the seriousness?
10. Which crimes are punished by imprisonment of more than a year?
11. What people should know about the law?
12. What is common thing for different levels of government?

B. Understanding details

Say, whether these statements are true or false.

1. Criminal cases like civil cases involve individuals and organizations seeking to resolve legal disputes.
2. A prosecutor in a criminal case initiates the suit.
3. Persons convicted of a crime may only be incarcerated.
4. There are common criminal laws for all states in the USA.
5. A crime of any nature can be punished by imprisonment.

TEXT 1A

CRIMINAL LAW – PENAL LAW

Criminal Law or Penal Law, involves prosecution by the government of a person for an act that has been classified as a crime. It is the body of statutory and common law that deals with crime and the legal punishment of criminal offenses. There are four theories of criminal justice: punishment, deterrence, incapacitation, and rehabilitation. It is believed that imposing sanctions for the crime, society can achieve justice and a peaceable social order. This differs from civil law in that civil actions are disputes between two parties that are not of significant public concern.

Criminal law involves prosecution by the government of a person for an act that has been classified as a crime. Civil cases, on the other hand, involve individuals and organizations seeking to resolve legal disputes. In a criminal case, the state, through a prosecutor, initiates the suit, while in a civil case the victim brings the suit. Persons convicted of a crime may be incarcerated, fined, or both. However, persons found liable in a civil case have to give up property or pay money, but are not incarcerated.

A "crime" is any act or omission (of an act) in violation of a public law forbidding or commanding it. Though there are some common law crimes, most crimes in the United States are established by local, state, and federal governments. Criminal laws vary significantly from state to state. There is, however, a Model Penal Code (MPC) which serves as a good starting place to gain an understanding of the basic structure of criminal liability. Crimes include both felonies (more serious offenses -- like murder or rape) and misdemeanors (less serious offenses -- like petty theft or jaywalking). Felonies are usually crimes punishable by imprisonment of a year or more, while misdemeanors are crimes punishable by less than a year. However, no act is a crime if it has not been previously established as such either by statute or common law. Recently, the list of Federal crimes, dealing with activities extending beyond state boundaries or having special impact on federal operations, has grown.

For most people, familiarity with criminal law comes in fragments -- from movies, television, and books. But when we become personally involved in the criminal law system, real-life issues come into focus and the need for information and assistance can arise quickly. People need to know the basics of criminal law: criminal statutes, criminal law players and procedure, and the potential outcome of a criminal case.

Criminal law addresses the government's prosecution of individuals who have committed an act classified as a crime. Federal, state, and local governments codify crimes and prosecute criminals. A prosecuting attorney represents the people of a particular jurisdiction, and acts on behalf of the government by bringing a case against an accused.

Vocabulary

deterrence (n)– сдерживающая мера: **incapacitation** – лишение правоспособности; **rehabilitation** – восстановление в правах, оправдание; **come into focus** – проявляться, **to bring a case** – возбудить дело,

Model Penal Code – уголовный кодекс, **statutory**- установленный законом, **penal law** – уголовное право, **felony** – уголовно-наказуемое преступление, **misdemeanor** – административное правонарушение

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. involves prosecution …… the government
2. deals…… crime and the legal punishment …. criminal offenses.
3. imposing sanctions …. the crime
4. differs ….. civil law …. that
5. civil actions are disputes …… two parties
6. seeking …. resolve legal disputes.
7. persons convicted … a crime
8. found liable ….. a civil case
9. have to give ….. property
10. understanding ….. the basic structure
11. crimes include … felonies ….misdemeanors
12. represents the people …. a particular jurisdiction
13. bringing the case ….. an accused

Speaking practice.

Prepare the summary of the text in 10-15 sentences using the key words and word combinations with prepositions.

Before you read text 1B

Comment on the following.

It is irrational to assume that a criminal is going to consider the consequences of his actions before committing a criminal act.

Reading tasks

A. Understanding main points

Read text 1A and answer these questions.

1. Criminal theories can be classified in two main groups. What are they?
2. What does crime classification involve?
5. What kinds of conduct should be criminalised?
6.How can you apply the Harm Principle?
7. Give the examples of some crimes that fall under the criminal law statutes.

B. Understanding details

Say, whether these statements are true or false.

1. Criminal law concerns with ‘public’, rather than merely ‘private’, wrongs, does it?
2. There are a few areas of crime that fall under the criminal law statutes, aren’t there?
3. There are some administrative agencies that are responsible for work on issues involving crime, criminal law, and the administration of criminal and juvenile justice.

Text 1B

THEORIES OF CRIMINAL LAW

Philosophical ‘theories of criminal law’ may be analytical or normative. Once we have identified the salient features that distinguish criminal law from other kinds of law, we ask whether and why we should maintain such an

institution. Instrumentalist answers to this question portray criminal law as an efficient technique that helps us achieve worthwhile ends; non-instrumentalist answers portray it as an intrinsically appropriate response to certain kinds of wrongful conduct. By considering the question of how the criminal law should address the citizens, we can discern the truth in the non-instrumentalist perspective. The next question concerns the proper scope of the criminal law: what kinds of conduct should be criminalised? Several candidate principles of criminalisation are critically discussed, including the Harm Principle, and the claim that the criminal law should be concerned with ‘public’, rather than merely ‘private’, wrongs.

Areas of crime that fall under the criminal law statutes: Appellate Law; White Collar Crime; Bribery; Counterfeiting/Forgery; Embezzlement; Fraud; Healthcare Fraud; Government Fraud; Murder/Homicide; Tax Evasion; Violent Crime; Theft/Property Crime; Drug Crime; Juvenile Crime; Child Abuse Crime.

The Criminal Justice Section has primary responsibility for the American Bar Association's work on solutions to issues involving crime, criminal law, and the administration of criminal and juvenile justice. The Section plays an active leadership role in bringing the views of the ABA to the attention of federal and state courts, Congress, and other federal and state judicial, legislative, and executive policy-making bodies. The Section also serves as a resource to its members on issues in the forefront of change in the criminal justice arena.

The Standards Committee is responsible for keeping the prestigious multivolume Standards for Criminal Justice up-to-date and relevant to criminal justice policymakers and practitioners. Appointed by the ABA President from recommendations of the Section Chair, its nine members commission task forces to draft new Standards on emerging issues or to propose revisions to existing Standards. The Committee reviews, refines, and presents the task forces' proposed "black letter" Standards to the Criminal Justice Section Council for approval prior to their submission to the ABA House of Delegates. Once the Standards are approved as ABA policy, the Committee approves commentary to accompany them in published volumes.

Vocabulary

portray –изображать, представлять, **the Harm Principle** – принцип «не навреди», **juvenile**(adj.) – несовершеннолетний, **proper scope** – соответствующий масштаб, counterfeiting – подделка, **embezzlement** – растрата, хищение, присвоение, **wrongful conduct** – неправомерное поведение, **the administration of justice** – исполнение правосудия

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. kinds ….. conduct
2. the criminal law should be concerned …… ‘public’ wrongs.
3. crime that fall ….. the criminal law statutes
4. Justice Section has primary responsibility …. work
5. Bar Association's work …. solutions …. issues
6. appointed … the President recommendations
7. new standards …. emerging issues

Speaking practice

Read the text once again and tell what are theories of criminal law.

U N I T 2

C R I M I N A L J U S T I C E

Before you read text 2A

Comment on one of the following quotations.

1. Justice is conscience, not a personal conscience but the conscience of the whole of humanity. Those who clearly recognize the voice of their own conscience usually recognize also the voice of justice.

(Alexander Solzhetitsyn)

2. The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.

(Anatole France)

Reading tasks

A. Understanding main points

Read text 2A and answer these questions.

1. What are the various agencies involved in the criminal process?
2. Which country's is criminal justice system described?
3. What nature is criminal process in England?
4. What does it mean to be adversarial by nature?
5. What does adversarial justice (England) refer to?
6. How can you describe criminal justice system in Russia?

B. Understanding details

Say, whether these statements are true or false.

1. Terms 'adversarial' and 'inquisitorial' are similar in meaning.
2. The term 'inquisitorial' refers to criminal code systems.
3. What a person shouldn't have special knowledge to understand the criminal process.
4. Summon is a court order given to the suspect that prescribes a date for first appearance in a Magistrates' Court.
5. The common law system rules disputing parties present the facts to the court.

Text 2A

CRIMINAL JUSTICE SYSTEM

The main aim of this section is to promote greater understanding of the Criminal Justice System as a whole. You will learn to understand how the criminal

law operates in practice by looking at the various agencies involved in the criminal process - such as the police, the Crown Prosecution Service (CPS) and the criminal courts. By looking at the stages, agencies and decision-making processes within the English Criminal Justice System, you will learn to understand how the various agencies work (or don't work) together. The criminal process of England and Wales is essentially adversarial in nature. You will find the terms 'adversarial' and 'inquisitorial' in many textbooks (the latter defines the Continental European Criminal Justice System). Their meanings cannot simply or precisely be defined, but these terminologies reflect particular historical developments rather than the practices of modern legal systems. In broad terms, adversarial justice (England) refers to the common law system of conducting proceedings in which the parties have the primary responsibility for defining the issues in dispute and for investigating and advancing the dispute (not the judge - as in France or Germany). An adversarial Criminal Justice System offers a 'party prosecution' of a dispute under the common law system; this means that parties (i.e. the Crown Prosecutor and Defense Lawyer) present the facts to the court. The term 'inquisitorial' refers to civil code systems (e.g. Spain or Greece) in which the 'inquisitorial' judge has such primary responsibility.

To understand the criminal process you need to know which Criminal Justice agencies have the power to arrest, bring a prosecution and punish. After a person has been arrested (the suspect), the prosecution (the Crown Prosecution Service - CPS) proceeds by way of summons where the suspect is given a date for first appearance in a Magistrates' Court. If the CPS proceeds with an arrest, a police officer has the power to grant bail to the suspect offender without going to the police station ('street bail', Part 2 Criminal Justice Act 2003 (CJA 2003)). Most commonly, the suspect will be interviewed at the police station. The suspect is then charged (or not) and may be remanded in police custody

Vocabulary

adversarial – состязательная (система), **inquisitorial** – следственный

(инквизиторский), **the Crown Prosecution Service - CPS**) – служба королевского обвинения, **decision-making process** – процесс принятия решений, **Defense Lawyer** – адвокат со стороны защиты, **to grant bail** - назначить залог, **is charged** - обвиняется, **police custody** - содержание под стражей.

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. how the criminal law operates … practice
2. agencies involved ….. the criminal process
3. decision-making processes …… the English Criminal Justice System
4. is essentially adversarial ….. nature.
5. adversarial justice refers …. the common law system
6. law system …. conducting proceedings
7. the prosecution proceeds …… way of summons
8. a date …. first appearance …. a Magistrates' Court
9. If the CPS proceeds …… an arrest,
10. the power to grant …… bail
11. will be interviewed …… the police station
12. may be remanded in police custody

Speaking practice

Summarize the text in 10-15 sentences. What should you know to understand the criminal process.

Before you read text 2B

Discuss the problem

The aim of the Criminal Justice System is …… . In your answer you could mention: to deter offenders; to deliver retribution; to rehabilitate offenders.

Reading tasks

A. Understanding main points

Read text 2B and answer these questions.

1. What is the main role of police recorded crime reports?
2. What is another term for “notifiable”?
3. What are three stages that govern crime recording process?
4. What kind of rules does the Home Office issue to police forces?

B. Understanding details

Say, whether these statements are true or false.

1. It is no use when police records crime and provides statistics.
3. Police database is a good indicator of its work.
4. “Notifiable” means to be registered by the police.
5. There is only one stage that governs crime recording process.
6. 'Detection Guidance' is a criteria which must be used in detection methods.

Text 2B

REPORTED (RECORDED) CRIME

The official police recorded crime reports and statistics provide a good measure of trends in well-reported crimes. They are an important indicator of police workload and performance (e.g. clear-up rates) and can be used for local crime pattern analysis. This statistical series covers all 'notifiable' offences recorded by the police and notified to the Home Office, known as 'recorded crime'. This does not mean all criminal offences, but almost all the summary offences are included. The crime recording process is governed by three key stages:

reporting a crime: someone reports to the police that a crime has been committed or the police observe or discover a crime or crime-related incident;

Recording a crime: the police decide to record the report of a crime and now need to determine how many crimes to record and what their offence types are.

The Home Office issues rules to police forces on the counting and classification of crime. These 'Counting Rules for Reported Crime' are fairly straightforward, as most crimes are counted as 'one crime per victim' and the offence committed is obvious (e.g. domestic burglary). However, it also covers special situations where more than one offence has taken place, maybe on several occasions over a period of time, or there is more than one offender or victim.

Detecting a crime: once a crime is recorded and investigated, and evidence is collected to link the crime to a suspect, it can be detected according to criteria contained in Home Office counting rules ('Detection Guidance'). In many cases, someone is charged or cautioned or the court has taken the offence into consideration (TIC). The Detections Guidance covers these detection methods as well as certain others where the police take no further action. The last available reports were in 2004-05 and can be found on the Home Office 'Research, Development and Statistics Development' (RDS) website and A - Z index: www.homeoffice.gov.uk

Vocabulary

workload and performance – загруженность работой и оперативными мероприятиями, **'notifiable' offences** – правонарушение, подлежащее регистрации**, fairly straightforward** – открытый, **'one crime per victim'** – на 1 преступление – 1 жертва, **is charged or cautioned** – обвиняется или подозревается, **detection methods** – методы следственной работы

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. good measure …. trends
2. indicator …. police workload
3. recorded …… the police
4. rules …. police forces ….. the counting

5. several occasions ….. a period of time,

6. to link the crime ….. a suspect

7. it can be detected …….. criteria

8. taken the offence …… consideration

Speaking practice

Summarize the information from the text. What are key stages that govern the crime recording process.

Before you read text 2C

Answer the following question

What constitutes modern day effective policing?

Reading tasks

A. Understanding main points

Read text 2C and answer these questions.

1. What was the first name for English police?

2. What was their duty?

3. What was the most important field for prosecution?

4. Has anything changed today?

5. What is the major agency of law enforcement?

6. What is the characteristic for ‘soft’ and ‘hard’ or ‘babylon’ policing?

7. How is police efficiency measured?

8. What are the reasons for decreasing property crimes?

9. How can you determine Media-hyped crime?

B. Understanding details

Say, whether these statements are true or false.

1. Police used to concentrate its work on the poor and socially deprived.

2. There is no difference between past and present police work.

3. Poliece doesn’t play important role in law enforcement.
4. ‘Hard’ or ‘babylon’ policing means to riot equipted.
5. Improved security equipment decrease property crime rate.
6. White-collar crime is a new type of criminal offences.
7. Black people are most frequently stopped and seached by police.
8. Anyone can afford private security.

Text 2C

POLICING: PAST AND PRESENT

In 1829 Robert Peel introduced London’s ‘New Police’ force. The ‘thief takers’ (like the ‘Bow Street Runners’) then controlled local disturbances and ‘ungovernable’ areas rather informally. A form of mixed economy policing developed with main forms of policing concentrating on the poor and socially deprived (inequality). Most prosecutions concentrated on property crime (burglary, sheep-taking, horse theft, etc). Arguably, nothing has changed today.

Today, the police remains the major agency of law enforcement in every country whereby governments pass and seek to enforce laws. Whilst the most common feature of English policing has been the com- munity ‘bobby’ – this has changed as well. Reiner (2000) examined policing styles and distributed these along dimensions from ‘soft’ (community policing) to ‘hard’ or ‘babylon’ policing (teams carrying riot equipment). The latest introduction to community policing has been the Police Community Support Officer (PCSO) who may look like a police officer on the beat, but has no true powers under PACE – in some high crime areas, this is already known by young children.

The importance of police efficiency and effectiveness measures increased dramatically from the late 1970s onwards, for a variety of reasons. EU countries have experienced a long-term increase in the rate of crime, in spite of the fact that crime rates began to fall from the late 1990s onwards. But, since 2002, according to the British Crime Survey, certain crimes have rapidly increased, such as street robbery and assaults. Meanwhile, we can observe a general drop in police clear-up

rates (i.e. solving reported crimes). Police efficiency is measured in 'key performance targets' and below is a list which gives you some of these indicators:

Police efficiency is measured in crime reduction in a particular area. Falling crime rates can be measured by the amount of property crime, for instance. Generally, property crime has fallen over the past decade, some of the reasons are:

• Improved car alarms and immobilisers on new cars

• Improved household security (burglar alarms).

There has also been improved city centre surveillance by means of Close Circuit Television (CCTV) – and it can be said that criminals have actually moved away from household and car-crimes, and turned to new types of criminal offences such as white-collar crime (e.g. credit card fraud), Internet (cyber) crimes; stalking; sexual abuse and harassment. Criminologists will also have us believe that low unemployment rates reduce property crime.

Police stops and searches

• Black people are six times more likely to be stopped and searched by police than white people (up by 38%)

• There are twice as many stop and searches of Asian people than white

• Total stops and searches for Asians up by 302% (from 744 to 2989)

• Racist incidents fell by 11% (2002–03)

• Numbers of arrests: three times higher for black people than others

• 12% more racist incidents resulted in prosecution

• Black and minority ethnic groups highly underrepresented in police force

• Although there was a disproportionate number of ethnic minority deaths in custody between 1 April 1998 and 31 March 2003, the disproportionality could not be directly related to racist attitudes or behaviour.

Source: British Crime Survey 2004, Home Office

Private policing

The fear of crime, reflected in neighbourhood 'crime talk' is today heightened by media hype of certain crimes, where limited personal experience and rumours are generalised or even globalised. So, who benefits from crime?

How much will people pay to prevent crime? With a shift towards punishment and increased penal legislation in EU coun- tries, private security measures have drastically expanded after 9/11. We now appear to live in a global terrorist culture in addition to our ‘nor- mal’ everyday (property) crime.

Media-hyped crime-talk has enhanced the fear of crime and in spite of increased neighbourhood and community policing, there remains a general mistrust in law enforcers. There has been a vast growth in the private security industry, such as private policing and surveillance. But such new and private (or privatised) crime control arrangements are costly.

Residents of certain wealthy residential housing developments spend a great deal of additional funds on security fencing, and emploing security guards to create ‘gated communities’. Some estates employ vigilante-style patrols, while some not-so-rich estates have taken the law into their own hands, since their trust in local police forces has declined. Private security is now regarded as a privilege contained in the ‘exclusive’ British culture.

Vocabulary

local disturbances –нарушение общественного порядка , **socially deprived –** бедные слои населения, **law enforcement –** деятельность правоохранительных органов, обеспечение правопорядка, **dimensions** – масштабы, размерыб **riot equipment –** приспособления для создания шума, **key performance targets –** основные показатели работы , **low unemployment rates** – низкие показатели по безработице, **media-hyped crime –** преступления, которые муссируются в средствах массовой информации **, vigilante-style patrols** – бдительные полицейские

Vocabulary practice

1. A form …… mixed economy policing developed ….. main forms
2. Most prosecutions concentrated …… property crime

3. the major agency ……. law enforcement

4. this is already known ……. young children

5. a long-term increase …… the rate …….. crime

6. ……. the fact

7. crime rates can be measured …….. the amount …….. property crime

Speaking practice

Read the text againg and prepare summury of the text using the following plan: history, duties, departments.

UNIT 3

CRIMINAL LIABILITY

Before you read 3A

Comment on the following

"Law, with all its weaknesses, is all that stands between civilization and barbarism" (John Derbyshire)

Reading tasks

A. Understanding main points

Read text 3A and answer these questions.

1. Give any definion for “liability” you know.

2. Which elements of a crime does the prosecutor need to prove?

3. What are five principles of liability in Criminal Law?

4. Which crimes are called "crimes of criminal conduct”?

5. How can you define "corpus delicti rule"?

6. Liability concepts: what are they?

7. What are the principles of actus reus?

8. What are the main principles of mens rea?

B. Understanding details

Say, whether these statements are true or false.

1. Each element of a crime must be proved by prosecutor.

2. There are not any crimes that involve all the principles of liability.

3. Actus reus always concurrs with a mens rea.

4. The law recognizes various degrees of possession.

Text 3A

PRINCIPLES OF CRIMINAL LIABILITY

Criminal Liability is what unlocks the logical structure of the Criminal Law. Each element of a crime that the prosecutor needs to prove (beyond a reasonable doubt) is a principle of criminal liability. There are some crimes that only involve a subset of all the principles of liability, and these are called "crimes of criminal conduct." Burglary, for example, is such a crime because all you need to prove beyond a reasonable doubt is an actus reus concurring with a mens rea. On the other hand, there are crimes that involve all the principles of liability, and these are called "true crimes." Homicide, for example, is such a crime because you need to prove actus reus, mens rea, concurrence, causation, and harm. The requirement that the prosecutor must prove each element of criminal liability beyond a reasonable doubt is called the "corpus delicti rule."

Liability needs to be distinguished from the following concepts:

culpability (purposely, knowingly, recklessly, negligently) - infers intent

capacity (infancy, intoxication, insanity) - capacity defenses

responsibility (volition, free will, competency) - presumptions

There are five principles of liability in Criminal Law:

Principle of Actus Reus

Principle of Mens Rea

Principle of Concurrence

Principle of Causation

Principle of Resulting Harm

THE PRINCIPLE OF ACTUS REUS

involuntariness -- sleepwalking, hypnotic behavior, etc. are seen as examples of acting upon forces beyond individual control, and are therefore not normally included in the principle of actus reus. However, certain "voluntarily induced involuntary acts" such as drowsy driving might arguably be included if the prior voluntary act created the risk of a future involuntary act.

manifest criminality -- caught red-handed, clear-cut case of actus reus proven beyond a reasonable doubt

possession -- the law recognizes various degrees of this. Actual possession means physically on your person. Constructive possession means physically under your control. Knowing possession means you know what you are possessing. Mere possession means you don't know what you are possessing. Unwitting possession is when something has been planted on you. The only punishable types of possession are the ones that are conscious and knowable.

procuring -- obtaining things with the intent of using them for criminal purposes; e.g., precursor chemicals for making narcotics, "pimping" for a prostitute, and procuring another to commit a crime ("accessory before the fact")

status or condition -- sometimes a chronic condition qualifies as action, e.g., drug addiction, alcoholism, on the assumption that first use is voluntary. Sometimes the condition, e.g. chronic alcoholism, is treated as a disease which exculpates an individual. Most often, it's the punishment aspect of criminal law in these kinds of cases that triggers an 8th Amendment issue. Equal Protection and other constitutional issues may be triggered.

thoughts -- sometimes, not often, the expression of angry thoughts, e.g., "I'll kill you for that" is taken as expressing the resolution and will to commit a crime, but

in general, thoughts are not part of the principle of actus reus. Daydreaming and fantasy are also not easily included in the principle of mens rea.

words -- these are considered "verbal acts"; e.g. sexual harassment, solicitation, terroristic threats, assault, inciting to riot.

THE PRINCIPLE OF MENS REA

circumstantial -- determination of mens rea through indirect evidence

confessions -- clear-cut direct evidence of mens rea beyond a reasonable doubt

constructive intent -- one has the constructive intent to kill if they are driving at high speeds on an icy road with lots of pedestrians around, e.g.

general intent -- the intent to commit the actus reus of the crime one is charged with; e.g., rape and intent to penetrate

specific intent -- the intent to do something beyond the actus reus of the crime one is charged with; e.g., breaking and entering with intent to burglarize

strict liability -- crimes requiring no mens rea; liability without fault; corporate crime, environmental crime

transferred intent -- the intent to harm one victim but instead harm another

THE PRINCIPLE OF CONCURRENCE

attendant circumstances -- some crimes have additional elements that must accompany the criminal act and the criminal mind; e.g., rape, but not with your wife

enterprise liability -- in corporate law, this is the idea that both the act and the agency (mens rea) for it can be imputed to the corporation; e.g., product safety

year-and-a-day rule -- common law rule that the final result of an act must occur no later than a year and a day after the criminal state of mind. For example, if you struck someone on the head with intent to kill, but they didn't die until a year and two days later, you could not be prosecuted for murder. Many states have abolished this rule or extended the time limit. In California, it's three years.

vicarious liability -- sometimes, under some rules, the guilty party would not be the person who committed the act but the person who intended the act; e.g., supervisors of employees

THE PRINCIPLE OF CAUSATION

actual cause -- a necessary but not sufficient condition to prove causation beyond a reasonable doubt; prosecutor must also prove proximate cause

but for or sine qua non causation -- setting in motion a chain of events that sooner or later lead to the harmful result; but for the actor's conduct, the result would not have occurred

intervening cause -- unforeseen events that still hold the defendant accountable

legal causation -- a prosecutor's logic of both actual and proximate cause

proximate cause -- the fairness of how far back the prosecutor goes in the chain of events to hold a particular defendant accountable; literally means the next or closest cause

superceding cause -- unforeseen events that exculpate a defendant

Vocabulary

criminal Liability – уголовная ответственность, **actus reus** (лат.) – объективная сторона преступлении, за совершение которой предусмотрено законом наказание, **mens rea** – вина, concurrence – совпадение, **"corpus delicti rule"** - состав преступления, culpability – виновность, **drowsy driving** – управление автомобилем в состоянии повышенной сонливости, **unwitting possession** – непредумышленное владение, **procuring** – заставить другого совершить преступление, solicitation - подстрекательство, **strict liability** – обязанность граждан возмещать ущерб, причиненный в результате какого-либо недораземения другим лицам, **intervening cause** – второстепенная причина

Vocabulary practice

1. to prove …… a reasonable doubt
2. involve all the principles …… liability
3. precursor chemicals …… making narcotics

4. acting …….forces

5. punishable types ……. possession

6. obtaining things …… the intent …….. using them

7. struck someone …… the head ……. intent to kill

8. one is charged ……

9. driving ……. high speeds ….. an icy road …… lots of pedestrians …..

10. constructive possession means physically …….. your control.

Speaking practice

Read the text again and saydo all people despite their age are responsiple for their conduct? Does strict liability make the defendant liable? Is it possible to excuse criminal charges due to voluntary intoxication or drug abuse?

Before you read text 3B

Comment on the following

Morality cannot be legislated but behavior can be regulated. Judicial decrees may not change the heart, but they can restrain the heartless.

Martin Luther King

Reading tasks

A. Understanding main points

Read text 3B and answer these questions.

1. Can you consider presumption as you right to be innocent until your is proved?

2. The purpose of presumptions is to simplify and expedite the trial process.

3. Should the judge remind the jury that it is naturally that all people form some kind of intent before or during their behavior.

4. Is it important to understand that presumptions are not inferences?

5. Presumptions may be considered as reminders about safe, scientific assumptions about human nature or human behavior in general.

B. Understanding details

Say, whether these statements are true or false.

1. All people form some kind of intent before or during their behavior.
2. It is right for the judge to order the jury to assume intent or a specific kind of intent in a case.
3. Presumptions are a substitute for evidence.

Text 3B

RESPONSIBILITY FOR CRIME: PRESUMPTIONS

Presumptions are court-ordered assumptions that the jury must take as true unless rebutted by evidence. Their purpose is to simplify and expedite the trial process. The judge, for example at some point in testimony, may remind the jury that it is OK to assume that all people form some kind of intent before or during their behavior. It is wrong, however, for the judge to order the jury to assume intent or a specific kind of intent in a case. Presumptions are not a substitute for evidence. Presumptions are supposed to be friendly reminders about safe, scientific assumptions about human nature or human behavior in general. The most common presumptions are:

reminders that the accused is considered innocent until proven guilty

reminders that the accused is to be considered sane, normal, and competent.

It is important to understand that presumptions are not inferences. Presumptions must be accepted as true by the jury. Inferences may be accepted as true by the jury, but the trick is to get the jury to believe they thought of it first. Lawyers are not allowed to engage in the practice of "stacking of inferences", or basing an inference solely upon another inference. Lawyers are also prohibited by logic from making certain "impermissible inferences" and here's an example of how the logic goes:

Evidence admitted:	Inferences that can be drawn:
Witnesses testify that X repeatedly hit Y on the head with a club until stopped by passerbys	Intent to kill or seriously injure; Purposely or Knowingly using club as deadly weapon.
Witnesses testify that X repeatedly hit Y on the head with a rolled-up newspaper	Intent to kill cannot be inferred; newspaper cannot be construed as a deadly weapon

Vocabulary

court-ordered assumptions – принятие обязанностей в судебном порядке, **rebutted** – опровергнутый, **testimony** – свидетельские показания, **infere**nces- вывод, умозаключение, предположение, stacking of inferences – цепочка выводов, **impermissible inferences** - недопустимое, неприемлемое предположение.

Vocabulary practice

1. The judge …….. some point …… testimony may remind the jury
2. ..all people form some kind …… intent …… or …….. their behavior
3. the accused is considered innocent …….. proven guilty
4. may be accepted as true …….. the jury
5. Lawyers are not allowed to engage ……. the practice
6. basing an inference solely …….. another inference.
7. Lawyers are also prohibited ….. logic ……. making certain "impermissible inferences"

Speaking practice

Read the text again and continue the statement: under law, a person is presumed to be innocent until…..

Before you read text 3C

Comment on the following

The trouble with the laws these days is that criminals know their rights better than their wrongs. (Author Unknown)

Reading tasks

A. Understanding main points

Read text 3C and answer these questions.

1. What is a plea?
2. What types of pleas are given in the text?
3. What is a plea bargain?
4. What is the defendant required before the court accepts a plea of guilty?
5. What does withdrawing a guilty or no contest plea mean?
6. What can you do if you are accused of a crime?

B. Understanding details

Say, whether these statements are true or false.

1. A plea is a just a defendant's response to a factual matter.
2. Not guilty means nolo contendere to a criminal charge.
3. A plea bargain is an agreement in a criminal case where the prosecutor and the defendant arrange to settle the case.
4. Tthe defendant must know his or her constitutional rights being involved in criminal process.
5. There must be a factual basis for the plea before entering a judgment on the plea.
6. You need to consult with a criminal lawyer if you are accused of a crime.

Text 3C

WHAT IS A PLEA

A plea is a defendant's answer to a factual matter. In criminal law, a plea is a defendantants formal response of guilty, not guilty or nolo contendere to a criminal charge.

Types of Pleas

Guilty - A plea by a defendant admitting that he committed the offense or crime charged. A guilty plea is a complete admission of guilt to the charge and a waiver of all rights. A guilty plea must be made with the consent of the court.

Not Guilty - A plea where the defendant denies the charges against him. The burden remains on the city, state, or federal government to prove its case beyond a reasonable doubt.

Nolo Contendere (no contest) - A plea entered by a defendant that does not admit guilt, but that subjects the defendant to punishment, while allowing the defendant to deny the alleged facts in other proceedings.

For purposes of sentencing a defendant, a plea of no contest is equivalent to a plea of guilty. However, a no contest plea differs from a guilty plea because it cannot be used against the defendant in other proceedings. For example, a plea of no contest by a defendant to a criminal assault charge will result in the defendant being convicted and sentenced for the criminal assault. But the plea cannot be used in a civil suit against the defendant. A no contest plea must be made with the consent of the court.

Failure to enter a plea - If the defendant refuses to enter a plea or does not appear, the court must enter a plea of not guilty.

Plea Bargaining

A plea bargain is an agreement in a criminal case where the prosecutor and the defendant arrange to settle the case. The defendant agrees to plead guilty to a lesser offense, lesser punishment, or to a smaller number of offenses than originally charged. Plea bargains are subject to the approval of the court. The Court Must Consent to a Guilty or No Contest Plea Before the court accepts a

plea of guilty or no contest, the defendant must be placed under oath and it must be determined that the defendant understands:

- his constitutional rights, including the right to counsel. The nature of the charges to which the defendant is pleading guilty or no contest .
- the waiving of the constitutional right to trial, right against self-incrimination and right to cross-examination of accusers
- the consequences of a plea of guilty or no contest including, any possible incarceration, probation and/or fines
- the court must also determine that the plea was made voluntarily and did not result from force, threats, or promises (other than plea bargaining).

Before entering a judgment on the plea, the court must first determine that there is a factual basis for the plea. The court must independently investigate that there is some reasonable cause to believe the defendant committed the crime. The court may satisfy this inquiry through statements and admissions from the defendant or his counsel, through police reports, or through preliminary hearing or grand jury transcripts.

Withdrawing a Guilty or No Contest Plea: a defendant may withdraw a plea of guilty or no contest for any reason before the court accepts the plea. After the court accepts the plea, but before the court imposes sentencing, the defendant may withdraw a plea of guilty or no contest only if:

The court rejects the plea agreement. The defendant can show a fair and just reason for withdrawing the plea. After the court imposes a sentence, the defendant may not withdraw a plea of guilty or no contest.

Right to Appeal a Guilty or No Contest Plea

Generally, a defendant will waive his right to appeal the plea in the plea agreement. A defendant can appeal a plea agreement only if it was entered into involuntarily, unknowingly, or without knowledge of the consequences of the plea.

If you are accused of a crime, you should speak to a criminal lawyer immediately to learn more about your rights, your defenses and the complicated legal system.

Vocabulary

plea – признание вины, **a guilty plea** – признание себя виновным, **waiver** – тот, кто отказался от своего права на…, **Nolo Contendere** – «не желаю оспаривать» (заявление об отказе оспаривать предъявленное обвинение), **plea bargains** – сделка между защитой и обвинением для того чтобы вынести приговор**, inquiry** – наведение справок, допрос, **withdrawing the plea** – не признавать виную

Vocabulary practice

1. a defendant's answer …….. a factual matter

2. formal response …….. guilty

3. a plea …….. a defendant admitting

4. A guilty plea must be made ……. the consent …….. the court.

5. the nature ……. the charges

6. ……. entering a judgment …… the plea

7. factual basis …….. the plea.

8. satisfy this inquiry ……. statements

9. ……. the court accepts the plea, but …… the court imposes sentencing

10. it was entered ……. involuntarily

11. ……. knowledge ……. the consequences ….. the plea.

Speaking practice

Look through the text again and discuss the following situations:

1. If a defendant withdraws his plea and goes to trial will the judge impose a higher sentence if the defendant loses the trial?

2. Also is there a motion a defendant can file to withdraw his plea if the motion his attorney filed was denied by the judge?

3. Is the defendant entitled to a hearing as to why the motion was denied?

U N I T 4

C O U R T S

Before you read text 4A

Comment on one of the following quotations

Law and justice are not always the same. When they aren't, destroying the law may be the first step toward changing it. (Gloria Steinem)

Reading tasks

A. Understanding main points

Read text 4A and answer these questions.

1. Who are the Magistrates?
2. “Who makes a triable-either-way decision?”
3. What does the word **Bench** mean?
3. What is the age when a person can become a Magistrate?
4. Who appointed Magistrates?
5. What are the other law professional who operate mostly in London and greater metropolitan areas?
6. What is the main aim of the DCA?
7. What are two categories of crime Magistrates deal with?
8. What is the defendant entitled to?

B. Understanding details

Say, whether these statements are true or false.

1. Most criminal cases are dealt with in the Magistrates’ Courts (MC) today.
2. Another term for violent and serious offence is indictable offence.
3. JP’ s older with retirement, are though in practice.
4. Some formal qualifications are required to be JP’s.
5. The defendant must plead guilty at the Magistrates’ Court to an alleged offence.
6. The defendant is offered to put the bail

Text 4A

MAGISTRATR'S COURT

Nearly all criminal cases (about 95%) are heard in the Magistrates' Courts (MC) today, with the exception of violent and serious offences,
known as indictable offences (e.g. murder, rape, etc.). The age when a person can become a Magistrate (Justice of the Peace – JP) has been lowered to 18, in order to attract more young people on to the Bench. Generally speaking, Magistrates are older with retirement usually around 70, though in practice, many Benches still have to use retired JPs because they are so short staffed (especially the Greater London Courts Authority). Who are the Magistrates? For over 600 years, Justices of the Peace (JPs) have undertaken the greater part of the judicial work carried out in England and Wales. Magistrates are members of the local community appointed by the Lord Chancellor (Department of Constitutional Affairs – DCA). No formal qualifications are required, but JPs need intelligence, common sense, integrity and the capacity to act fairly. Membership should be widely spread throughout the area covered and drawn from all walks of life. The DCA's main aim is to recruit suitable candidates from the ethnic minorities, proportionally from the areas for which they are responsible: today's Magistrates ought to reflect the profile of the neighbourhood they live in. The voting pattern and political views should be broadly reflected in the composition of the Bench and there should be no more than 15% of JPs on a Bench from the same occupational group. All Magistrates are carefully trained and appraised throughout their service. Apart from Magistrates, there are about 130 District Judges (DJs) who operate mostly in London and greater metropolitan areas. DJs have at Types of offences. There are three main broad categories of criminal offences. Statute now determines most offence types; this in turn will determine where the case is to be heard – either in the Magistrates' Court or the Crown Court before judge and jury.

Types of offences

1. Indictable offences
2. Summary offences

3. Offences triable-either-way (either-way offence)

Magistrates deal with two categories of crime:

• Summary offences (less serious e.g. driving offences, harassment)

• Either-way offences (more serious e.g. theft, assault).

The defendant pleads guilty at the Magistrates' Court to an alleged offence. Magistrates move straight to sentencing (e.g. motoring offence, such as drink-driving – driving with excess alcohol etc); the defendant is entitled to a reduction in sentence.

The defendant is refused bail, and given reasons why bail might be refused by Magistrates (e.g. serious imprisonable offence; antecedents of (re)offending whilst on bail; interference with witnesses.

Vocabulary

indictable offences – уголовное преступление, подлежащее к рассмотрению в суде, **integrity** – честность, **the capacity -** правоспособность, **trained and appraised**- подготовлены и профессионально оценены, **triable offences** – подсудные (надлежащие к рассмотрению в суде) преступления, **summary offences**- мелкие правонарушения, рассматриваются как правило в мировых судах, **either-way offences** –правонарушение по которому обвиняемый имеет право выбирать где будет рассматриваться дело (мировой суд или Суд Короны) , **plead guilty**- признать вину , **motoring offence** - автодорожные преступления, **bail**- залог, **imprisonable offence** –преступления, наказуемые тюремным заключением.

Vocabulary practice

1. the greater part … the judicial work carried …. …. England and Wales

2. members ……. the local community appointed ….. the Lord Chancellor

3. should be widely spread …… the area

4. to recruit suitable candidates …….. the ethnic minorities

5. proportionally …… the areas …… which they are responsible

6. to reflect the profile ……. the neighbourhood they live ……..

7. carefully trained and appraised …… their service

8. …… Magistrates, there are about 130 District Judges

Speaking practice

Read the text once more and describe and define either-way offences; discuss defendant's choice where his case may be heard (Magistrates' vs. Crown Cour t). Discuss issues in favour of the defendant choosing trial by Magistrates.

Before you read text 4B

Comment on one of the following quotatio.

Punishment is the last and the least effective instrument in the hands of the legislator for the prevention of crime. (John Ruskin)

Reading tasks

A. Understanding main points

Read text 4B and answer these questions.

1. What is the fundamental principle enshrined in English law?
2. What is a kind of 'Higher Court of First Instance'?
3. Which court is known as 'The Old Bailey'?
4. Who hear Crown Court trials?
5. What is called 'jury intimidation'?
6. How can you determine the 'contempt of court'?
7. Can you describe trial progress.

B. Understanding details

Say, whether these statements are true or false.

1. Crown Court trials are public.

2. The Crown deals with more serious criminal cases.

3. The Crown Court only hears appeals against decisions made in the Magistrates' Courts.

4. It is a civil offence to attempt to influence a jury's discussions.

5. Ideally the verdict of a jury shouldn't be unanimous.

Text 4B

THE CROWN COURT

Her Majesty's Crown Court is part of the Supreme Court of Judicature of England and Wales – alongside the High Court of Justice and the Court of Appeal. The Crown Court is a permanent unitary court across England and Wales – a kind of 'Higher Court of First Instance' in all serious criminal cases. The most famous Crown Court is the 'Central Criminal Court' in London, better known as 'The Old Bailey'.

Functions of the Crown Court. The Crown Court was established in 1972 by the Courts Act 1971; many of its decisions have now been repealed by the Supreme Court Act 1981. The Crown Court hears indictable-only offences, and those 'either-way' offences which Magistrates have committed to the Crown Court because they feel their sentencing powers aren't adequate enough, or the defendant himself has chosen Crown Court trial by judge and jury. Crown Court trials are heard by a judge and a 12-person jury. Apart from people actually involved in the cases, members of the public may have to go to court as witnesses or to do jury service. The Crown sits in 78 locations in England and Wales and deals with more serious criminal cases transferred from the Magistrates' Court such as murder, rape and robbery.

The Crown Court also hears appeals against decisions made in the Magistrates' Courts and deals with cases sent from Magistrates' Courts for sentence.

The trial will usually progress as follows:

• Counsel for the prosecution opens his case

• Witnesses for the prosecution
• Counsel for the defence may open his case
• Witnesses for the defence
• Counsel for the prosecution sums up his case
• Counsel for the defence sums up the case for the defence
• Summing up to the jury by the judge
• Jury retire and return with verdict.

Jury and witness intimidation under the Criminal Justice and Public Order Act 1994 it is an offence to intimidate a person whom the offender believes to be a potential or actual witness or juror. This is called 'jury intimidation' (also known as jury 'nobbling'), where someone involved in the trial puts pressure on jurors to vote in a particular way, by bribes or threats. It is a criminal offence to attempt to influence a jury's discussions or to question them about their discussions when the case is over. It is also a criminal offence to intimidate a juror in relation to proceedings with which he is connected (this falls under the 'contempt of court' legislation – Contempt of Court Act 1981).

Committal for Trial Appeal

Crown Court Appeals and Committals Offences for Sentence: Circuit Judge or Recorder and Magistrates

Class 4 Offences. Circuit Judge or Recorder

Class 3 Offences. High Court Judge or Puisne Judge or Recorder

Class 2 Offences. High Court Judge

Class 1 Offences. High Court Judge. Preliminary Hearings before Magistrates. Magistrates' Court. Queen's Bench Division (QBD). Divisional Court. Court of Appeal (CA). (Criminal Division). House of Lords (HL)

Criminal Court Structure.

The verdict. Ideally the verdict of a jury should be unanimous. In 1967 majority verdicts were introduced of 10 to 2 (or 9 to 1 if the jury has been reduced during the trial); i.e. when there are at least 10 people on the jury and they cannot reach a unanimous verdict, a majority verdict is acceptable. If found guilty, the accused

will be punished (sentenced) on indictment. This is set by statute for most criminal offences or life imprisonment for a murder conviction. Crown Courts can set an unlimited fine.

You need to describe the jury trial within the administration of justice in England and Wales and discuss the constitutional principle that no person should be imprisoned for a serious crime unless he has been found guilty by his peers. Briefly discuss other (civil) juries, but concentrate on the criminal process. You need to address the role of the judge and the fact that he must give a general direction to the jury. Juries find the defendant guilty/not guilty on the facts of the case presented to them. You need to discuss the standard and burden of proof and the importance of the judge's summing up; miscarriages of justice or a re-trial. Finally, you must address new legislation regarding jury service under the CJA 2003 and the proposed use of exper t juries in serious fraud cases.

Vocabulary

permanent unitary court –постоянно действующий, унитарный суд, **indictable-only offences** –обвиняемому в данном правонарушении гарантирован суд присяжных, **'either-way' offences** – преступлениия, рассматриваемые в мировых судах, **to intimidate** - запугивать , **'jury intimidation'** –запугивание присяжных , **the 'contempt of court'** –неуважение к суду, оскорбление суда , **unanimous verdict** - единогласный вердик , **burden of proof** – бремя (тяжесть) доказательства

Vocabulary practice

1. decisions have been repealed ……. the Supreme Court
2. …… people actually involved in the cases
3. members ……. the public may go …… court ……. witnesses
4. The Crown Court also hears appeals …….. decisions
5. The Crown Court deals ……. cases sent ……. Magistrates' Courts

6. puts pressure ……. jurors …… bribes or threats

7. This is set …… statute …… most criminal offences

Speaking practice

1. “Describe and evaluate the jury system of England and Wales. What, in your opinion, are the advantages and disadvantages, and how has the system changed after the introduction of the CJA 2003?

2. You need to describe the jury trial within the administration of justice in England and Wales and discuss the constitutional principle that no person should be imprisoned for a serious crime unless he has been found guilty by his peers.

3. Briefly discuss other (civil) juries, but concentrate on the criminal process. You need to address the role of the judge and the fact that he must give a general direction to the jury. Juries find the defendant guilty/not guilty on the facts of the case presented to them. You need to discuss the standard and burden of proof and the importance of the judge’s summing up; miscarriages of justice or a re-trial. Finally, you must address new legislation regarding jury service under the CJA 2003 and the proposed use of exper t juries in serious fraud cases.

U N I T 5

CR I M E S

Before you read text 5A

Comment on the following quotations

Society prepares the crime; the criminal commits it. (H. Buckle)

Reading tasks

A. Understanding main points

Read the text 5A and answer these questions.

1. Has the fear of crime phenomenon gained momentum over the past 20 years?

2. Which organization provides statistics about victim?

3. Numerous factors and variables play a role in the fear of crime do they?

4. How can you define fear of crime phenomenon?

5. Which type of fear relates to how vulnerable a person feels?

B. Understanding details

Say, whether these statements are true or false.

1. Fear of crime is a very new and actual issue today.

2. Women's fear is in the centre on their vulnerability and on sexual aggression, isn’t it?

3. Age is not a powerful predictor of fear.

4. The vulnerability of the elderly stems from the physical and social limitations.

5. The elderly are the most afraid of being mugged or burgled.

Text 5A

F E A R O F C R I M E

Fear of crime is a very prevalent issue today and is made worse by the media. Despite the fact that official Home Office figures have shown a significant drop in the overall level of crime, fear of crime amongst the general population is still on the increase. This is largely attributed to the influence of the media. The fear of crime phenomenon has gained momentum over the past 20 years.

When this issue first came about, researchers became interested in it as a source of discovering the 'dark figure' of crime, i.e. unreported crime. Victim surveys, like the British Crime Survey (BCS), conducted by the British Home Office every couple of years, establishes the dark figure of crime by interviewing approximately 9000 victims of various crime categories anonymously; the results are then theorised and related to experiences of victimisation. Some of the results and assumptions are disputed. Researchers have recognised that numerous factors and variables play a role in the fear of crime.

Fear of crime can be defined as an anticipation of victimisation, rather than

fear of an actual victimisation. This type of fear relates to how vulnerable a person feels. Gender has been found to be the strongest predictor of fear. Women have a much greater fear of crime than men, but, according to the BCS, are victimised less than men. Women's fear is in the centre on their vulnerability and on sexual aggression (e.g. rape). Women are not born with this inherent fear but they are socialised into thinking that they are vulnerable to an attack, for example, if they go out alone at night. Parents, peers and media emphasise and reinforce this fear, and women are expected to succumb to it.

Age is also a powerful predictor of fear and varies from crime to crime. The elderly are the most afraid of, say, being mugged or burgled. When it comes to crimes like sexual assault and stranger attacks (stalking), it has been found that younger people tend to be more fearful. The vulnerability of the elderly stems from the physical and social limitations that elderly people have, which renders them unable to defend themselves or to seek support and help.

Vocabulary Notes:

prevalent issue – превалирующий, господствующий вопрос, **despite** – несмотря на, **Home Office** – министерство внутренних дел, **experience of victimisation** – опыт преследования, **vulnerable** – уязвимый, ранимый, **to emphasise** – делать акцент, **elderly** - старшее поколение, **to succumb** – не выдержать, поддаться, уступить, **predictor of fear**- показатель страха, **being mugged or burgled –** быть ограбленным (на улице или дома), **sexual assault –** изнасилование, **stalking –** преследование, **to stem –** происходить

Vocabulary practice

Fill in the gaps with prepositions and translate the following phrases:

1. general population is still … the increase
2. The fear of crime phenomenon has gained momentum ….. the past 20 years.
3. researchers became interested …… it

4. the results are related … experiences …. victimisation.

5. Women …….. the BCS, are victimised less than men

6. are not born …… this inherent fear

7. if they go …… alone at night.

8. the elderly are the most afraid …. being mugged

9. vulnerability …. the elderly

10. they are vulnerable …. an attack

11. a greater fear …. crime

12. the influence of the media.

Speaking practice

Read the text again, choose the main information, give two types of fear with characteristics.

Before you read text 5B

Comment on the following quotations.

Every unpunished murder takes away something from the security of every man's life. (D. Webster)

Reading tasks

A. Understanding main points

Read the text 5B and answer these questions.

1. What are the most common types of offences?

2. Is any difference in sentencing for felony and misdemeanor?

3. What is the main factor for classification felonies?

4. What makes crimes and penalties into connected?

5. Which types of crimes have benn historically defined as serious felonies?

6. What is new in felony's definition?

B. Understanding details

Say, whether these statements are true or false.

1. Felonies are not only serious crimes.
2. A felony is an offense which is punishable by a sentence even less 6 months of imprisonment.
3. Felonies may be classified by level of seriousness.
4. To serve in a prison or jail is the same to be in custody.
5. New serious felony crimes include crimes with weapon and violence.
6. New definition eliminates serious felony compensation for many crimes.

Text 5B

FELONY LAW AND LEGAL DEFINITION

In general, a felony is an offense for which a sentence to a term of imprisonment in excess of one year is authorized. Felonies are serious crimes, such as murder, rape, or burglary, punishable by a harsher sentence than that given for a misdemeanor.

The sentence for a felonious crime under state law will be served in a state prison, since a year or less can be served in county jail. However, a sentence upon conviction for a felony may sometimes be less than one year at the discretion of the judge and within limits set by statute.

Felonies may be classified by level of seriousness. More serious felonies carry harsher penalties. The classification of felonies varies by jurisdiction and crime. Typically, when felonies are classified into categories, a Class A felony is more severely punished than lower level Class B and even lower level Class C felonies. The statute of limitations varies by jurisdiction and type of felony.

The definition of serious felony crimes has been revised, both for purposes of compensation and qualification of applicants to the panel. Following is a detailed description of the specific changes to the serious felony definition, which is in effect as of July 1, 2007, for all cases appointted on or after that date.

The following crimes have historically been defined as serious felonies by the Superior Court/BASF and have been eligible for compensation over and above that

received on regular felony cases: “sex cases, attempted murder, mayhem, nonvehicular manslaughter, gun use with great bodily injury, child abuse with great bodily injury, three or more separate instances of robbery, assault or residential burglary.”

This definition has appeared on all applications for the criminal law panel. Additionally, all life sentence crimes (with the exception of three strike cases in which the new charged offense did not constitute a serious felony as defined above) have historically been classified as serious felonies, eligible for increased compensation.

In considering what crimes should constitute serious felonies for the purpose of increased compensation, an increase in penalty is only one factor. Increased compensation is also appropriate when the complexity of the case requires greater legal expertise.

A subcommittee of the Conflicts Committee of the Bar Association analyzed the pertinent changes in the law and current practices and procedures in the San Francisco Superior Court and recommended to the Superior Court that the definition of serious felonies used for qualification purposes and compensation purposes be modified.

The Superior Court unanimously approved the new definition as set forth below. The following classes of crimes are serious felonies for billing and appointment purposes in all cases appointed on or after July 1, 2007.

New serious felony definition:

1. All felonies that are punishable by life imprisonment, including all three strikes cases
2. Attempted murder
3. Voluntary manslaughter
4. All felony sex crimes requiring registration under Penal Code and Sexual battery
5. Any felony in which it is alleged that a firearm was used pursuant to Penal Code

6. Three or more separate incidents of the following crimes:

a. Residential burglary (i.e. three or more different premises- not just three victims)

b. Assault, in which the personal use of a weapon is alleged as an enhancement or personal infliction of great bodily injury is alleged as an enhancement

c. Robbery, attempted robbery or carjacking

d. For the purpose of this section, three or more incidents contemplates three different times and locations, not just three different victims

7. All petitions filed under Welfare and Institutions Code

8. Arson of an inhabited dwelling

9. Cases in which the District Attorney is seeking a lifetime commitment pursuant to Penal Code section 66003

This new definition eliminates serious felony compensation for: 1) simple mayhem, 2) Statutory rape and sexual battery 3) "soft" assaults (i.e., assaults which would not qualify as strikes upon conviction) and 4) child abuse with great bodily injury. Complex fraud cases have been compensated at the regular felony level since 2004/2005 and continue to be compensated as regular felonies.

This new definition also clarifies the meaning of three or more instances of certain conduct which make the series of charged offense eligible for serious felony compensation.

This new serious felony definition is more consistent with the Penal Code definition of such crimes. This new definition reflects changes in the practice of criminal law prompted by significant legislative changes increasing punishment and creating new crimes. The proposed new definition fosters and supports a common sense approach to compensation and appointment of qualified counsel and eliminates many ambiguous appointment and compensation questions.

For all cases in which counsel is appointed on or after July 1, 2007 counsel should carefully review the new criteria for serious felony compensation and bill in accordance with the new guidelines approved by the San Francisco Superior Court.

Vocabulary

felony – уголовно-наказуемое преступление, murder – убийство, rape – изнасилование, burglary – кража со взломом, misdemeanor – административное правонарушение, discretion – ответственность, attempted murder – попытка к убийству, mayhem –нанесенные увечья, nonvehicular manslaughter – непредумышленное убийство (без участия транспорта), bodily injury - телесные повреждения, child abuse – жестокое обращение с детьми, robbery – вооруженное ограбление, assault - словесное оскорбление и угроза физическим насилием, residential burglary – проникновение в жилище, strikes cases – дела о нанесении ударов (избиение), enhancement – улучшение, personal infliction – предписываемое гаказание, sexual battery - избиение на сексуальной почве, arson – поджог

Vocabulary practice

1. a sentence … a term …. imprisonment in excess of one year

2. sentence given …….. a misdemeanor

3. the sentence ….. a felonious crime ……. state law

4. can be served ……. county jail

5. felonies may be classified ……. level …… seriousness

6 the classification …… felonies varies ….. jurisdiction

7. felonies are classified …… categories

8. both …. purposes …… compensation and qualification …. applicants ….. the panel

9. gun use ….. great bodily injury

10. child abuse …… great bodily injury

11. the series ….. charged offense eligible …. serious felony compensation

12. ….. all cases appointted ….. or ……. that date

Speaking practice

Summarise the text paying attention to: 1. the changes in felony definition and 2. The constitutional rifhts of the prson accused of commiting a crime.

U N I T 6

PROSECUTION

Before you read text 6A

Comment on the following quotations.

The love of life is necessary to the vigorous prosecution of any undertaking.

Johnson, Samuel known as Dr Johnson

Reading tasks

A. Understanding main points

Read the text 6A and answer these questions

1. What was the main reason for establishing the Crown Prosecution Service (CPS)?
2. What is the main function of the Attorney General (AG)?
3. Who recommends bail or a necessary remand in custody?
4. When will the prosecutor recommend a Crown Court trial on indictment?
5. Is it possible for the defendants to plead guilty to some, but not all, of the charges?
6. What does simplify the decision-making process

B. Understanding details

Say, whether these statements are true or false

1. Certain forces were under political pressure to make arrests, often resulting in wrongful convictions.

2. Corruption emerged where officers were frustrated by legal processes or where organized crime could ‘buy off’ the police.
3. CPS acted as an ‘intermediary’ authority between a suspect’s first arrest by the police and the correct charging process with a criminal.
4. The police still have the power to charge (except for very minor cases).
5. Prosecutors should not accept a defendant’s plea if they do not sure that the court is able to pass a sentence.

Text 6A

PROSECUTING CRIME

The emergence of the Crown Prosecution Service (CPS) by the beginning of the 1980s it became clear that some police forces (although not all) and certain police officers and detectives were corrupt. Certain forces had come under political pressure to make arrests, often resulting in wrongful convictions. The use of police informers was commonplace and pressure on certain under-cover officers frequently resulted in their illegal threats against informants or use of them to provide fabricated evidence. Corruption had emerged where officers were frustrated by legal processes (‘noble cause’ corruption, for example, where suspects are ‘framed’), or where organized crime could ‘buy off’ the police. One such case, involving the Surrey Police, was the Guildford Four (Paul Hill, Carole Richardson, Gerard Conlon and Patrick Armstrong), convicted of pub bombings on behalf of the IRA in Guildford and Woolwich. Police interrogation and investigative strategies were found to be gravely at fault. Such situations became very difficult to unravel. For this reason the power to take criminal cases from first arrest to charge through the criminal courts was taken away from the police and the Crown Prosecution Service (CPS) was created in 1986 (Prosecution of Offences Act 1985) in order to avoid any further miscarriages of justice . From 1986 onwards, until the introduction of the Criminal Justice Act 2003, the CPS acted as an ‘intermediary’ authority between a suspect’s first arrest by the police and the correct charging process with a criminal. This decision-making process was

simplified – the CPS now lays all charges and acts as an advisory capacity to the police. Practically, this means that a CPS representative is located in most police stations to speed up the offence. From 1 April 2005 (CJA 2003), this decision-making process was simplified – the CPS now lays all charges and acts as an advisory capacity to the police. Practically, this means that a CPS representative is located in most police stations to speed up the charging process. Role and functions of the CPS is part of the Civil Service under the supervision of the Attorney General (AG). By September 2004, 35 of the 42 CPS areas were operating 'shadow charging'. This occurs where the Association of Chief Police Officers (ACPO) have agreed to accept the decision of the prosecutor; police agreement to charges are now not required. This means that the prosecutor (and no longer the police) decides that a suspect should be charged or cautioned. The police no longer have the power to charge (except for very minor cases). The prosecutor also recommends bail or a necessary remand in custody. It is here that the 'Threshold Test' will be applied in line with human rights legislation. It is at the Magistrates' Court (MC) where Mode of Trial decisions are decided by the prosecution. In triable-either-way offences the defendant is asked whether he wants to have the case tried in the MC or wishes to pursue his case in the Crown Court. In serious charges, involving murder, sexual offences or grievous bodily harm, the prosecutor will always recommend a Crown Court trial on indictment, as soon as he is satisfied that the Code for Crown Prosecutor's guidelines require him to do so; in which case the Magistrates will commit the defendant to the Crown Court. Speed must never be the only reason for asking for a case to stay in the MC. Prosecutors must consider the effect of any likely delay if they send a case to the Crown Court and they should always take the victim's (and witnesses') interests into account. The Crown Prosecutor may not always continue with the most serious charge where there is a choice, meaning that he should not continue with more charges than are necessary. Furthermore, he should never go ahead with more charges than are necessary just to encourage a defendant to plead guilty to a less serious one. The Code tells him that he should not change the charge simply

because of the decision made by the MC (or the defendant) about where the case will be heard in either-way offences. Defendants may want to plead guilty to some, but not all, of the charges, or they may want to plead guilty to a different, possibly less serious charge because they are admitting only part of the crime (this is called 'plea bargaining'). Prosecutors should only accept a defendant's plea if they think the court is able to pass a sentence that matches the seriousness of the offence; they should never accept a guilty plea just because it is convenient.

Vocabulary

come under political pressure – относиться, подпадать, подвергаться политическому давлению, **wrongful convictions** – неправомерное осуждение, **under-cover officers** – офицеры, работающие под прикрытием, **illegal threats** - незаконные угрозы, **to provide fabricated evidence** – предоставлять сфабрикованные доказательства, **emerge** – появляться, всплывать, возникать, **"noble cause"** – неправомерные действия из-за хороших побуждений, **suspects are 'framed'**- «подставленный», ложнооклеветанный, **'buy off' the police** – откупаться от полиции, **to be gravely at fault**- быть серьезным, угрожающим по вине.

Vocabulary practice

1. come …… political pressure -
2. the use …… police informers
3. take criminal cases …….. first arrest to charge …….. the criminal courts
4. a necessary remand ……. custody
5. Defendants may want to plead guilty …… some, but not all, ……. the charges,
6. change the charge simply because …….. the decision
7. the seriousness …… the offence;
8. the Magistrates will commit the defendant ……. the Crown Court.
9. representative is located ……. most police stations to speed ….. the offence.

10. officers were frustrated ……. legal processes

11. to be gravely …….. fault

12. was created …. 1986 ……. avoid any further miscarriages ……. justice

13. recommend a Crown Court trial ….. indictment,

14. the power was taken ……. ……. the police

Speaking practice

Read the text again and determine the role and functions of CPS.

Give the full names for CPS, MC, ACPO, AG.

Before you read the text 6B

Comment on the following quotations

Life is a gift, and it offers us the privilege, opportunity, and responsibiity to give something back by becoming more. (**Tony Robbins**)

Reading tasks

A. Understanding main points

Read the text1A and answer these questions

1. Are any factors pro' and con's prosecution?

2. What are factors in favour of a prosecution?

3. What are factors against a prosecution?

4. Is recurring conduct a pro' prosecution factor?

B. Understanding details

Say, whether these statements are true or false

1. All offences involved children concern factors in favour of prosecution.

2. Any forms of discrimination offences fall under factors in favour of prosecution.

3. A recurring conduct is key element of repeated offence.

4. It is against a prosecution if the defendant is elderly or suffering from significant mental/physical ill health.

Text 6B

THE CODE FOR CROWN PROSECUTOR

Public interest factors in favour of a prosecution include:

- when a conviction is likely to result in a significant sentence
- when a weapon was used
- an offence against a child
- domestic violence in front of children
- when violence was threatened during the offence
- an offence which was carried out by a group or gang
- when the victim was vulnerable (e.g. children); or
- an offence motivated by any form of discrimination against victim's ethnic or national origin; sex; religious beliefs; political views or sexual preference
- evidence of corruption
-when the defendant's previous convictions/cautions are relevant to present offence
-when the defendant committed offence whilst under an order of court (e.g. bail)
- a repeat offence (i.e. history of recurring conduct)

Public interest factors against a prosecution include:

- when the court is likely to impose very small penalty
-when the defendant is already subject of a sentence (or in prison)
-an offence committed as result of genuine mistake or misunderstanding
-when loss or harm was minor and result of single incident (misjudgement)
-when there was a long delay between offence taking place and trial date
(unless: offence was serious; delay caused partly by defendant; offence only recently came to light; complexity of offence meant long investigation)
- when a prosecution is likely to have a very bad effect on victim's physical or mental health
-when the defendant is elderly or suffering from significant mental/physical ill health (unless offence very serious or defendant will repeat offence)

Vocabulary

significant sentence – существенный приговор, **vulnerable victim** – уязвимая жертва, **under an order of court** – (быть) под распоряжением суда, **recurring conduct** – повторное поведение, **loss or harm -**

ущерб или вред, **suffering from –** страдающий от, **previous conviction –** имеющаяся судимость, **significant sentence –** суровый приговор, **domestic violence –** насилие в семье, **in favour of –** в пользу, **pro' and con's prosecution –** за и против осуждения.

Vocabulary practice

1. factors ……. a prosecution
2. an offence ……. a child
3. domestic violence …….. children
4. offence which was carried ……. ……. a group
5. an offence motivated ….. any form ….. discrimination ….. victim's ethnic or national origin;
6. cautions are relevant …… present offence
7. offence whilst …… an order ……. cour
8. factors …….. a prosecution
9. the defendant is subject ……. a sentence
10. a long delay ……. offence taking place and trial date
11. delay caused partly …….. defendant
12. bad effect …… victim's physical or mental health
13. suffering ……. significant mental/physical ill health

Speaking practice

Read the text again and outline the main factors that constitute the sufficient evidence criteria, followed by the factors that constitute the public interest test

(criteria) for the CPS to review its cases. Discuss with reference to the CPS Code why the prosecution may decide to discontinue a case.

Before you read the text 6C

Comment on the following quotations.

I consider trial by jury as the only anchor yet imagined by man by which a government can be held to the principles of its constitution. Thomas Jefferson

Reading tasks

A. Understanding main points

Read the text 6C and answer these questions

1. What does it mean when a person committing a crime is accused?
2. What is the difference in proving quilty in English law?
3. In which legal system the wrongdoer (or offender) is called plaintiff for both criminal and civil cases?
4. In what cases the standards of proof are higher?
5. Is evidence from a criminal trial admissible as evidence in a civil action about the same matter?

B. Understanding details

Say, whether these statements are true or false

1. In most countries there is no any distinction between civil and criminal procedures.
2. English criminal law by means of courts obliges the defendant to pay a fine as a punishment.
3. The standards of proof are higher in a criminal action than in a civil one
4. In a criminal case a crime can be proven despite of if the person or persons judging it doubt the guilt of the suspect.
5. All criminal actions are always started by the state.

6. Evidence from a criminal trial is necessarily admissible as evidence in a civil action about the same matter.

Text 6C

DIFFERENCE IN CRIMINAL AND CIVIL PROCEDURES

Most countries make a rather clear distinction between civil and criminal procedures. For example, an English criminal court may force a defendant to pay a fine as punishment for his crime, and he may sometimes have to pay the legal costs of the prosecution. But the victim of the crime pursues his claim for compensation in a civil, not a criminal, action. In France, Italy, and many countries besides, the victim of a crime (known as the "injured party") may be awarded damages by a criminal court judge.

The standards of proof are higher in a criminal action than in a civil one since the loser risks not only financial penalties but also being sent to prison (or, in some countries, executed). In English law the prosecution must prove the guilt of a criminal “beyond reasonable doubt”; but the plaintiff in a civil action is required to prove his case “on the balance of probabilities”. Thus, in a criminal case a crime cannot be proven if the person or persons judging it doubt the guilt of the suspect and have a reason (not just a feeling or intuition) for this doubt. But in a civil case, the court will weigh all the evidence and decide what is most probable.

Criminal and civil procedure are different. Although some systems, including the English, allow a private citizen to bring a criminal prosecution against another citizen, criminal actions are nearly always started by the state. Civil actions, on the other hand, are usually started by individuals.

In Anglo-American law, the party bringing a criminal action (that is, in most cases, the state) is called the prosecution, but the party bringing a civil action is the plaintiff. In both kinds of action the other party is known as the defendant. A criminal case against a person called Ms. Sanchez would be described as “The People vs. (=versus, or against) Sanchez” in the United States and “R. (Regina, that is, the Queen) vs. Sanchez” in England. But a civil action between Ms. Sanchez

and a Mr. Smith would be “Sanchez vs. Smith” if it was started by Sanchez, and “Smith vs. Sanchez” if it was started by Mr. Smith.

Evidence from a criminal trial is not necessarily admissible as evidence in a civil action about the same matter. For example, the victim of a road accident does not directly benefit if the driver who injured him is found guilty of the crime of careless driving. He still has to prove his case in a civil action. In fact he may be able to prove his civil case even when the driver is found not guilty in the criminal trial.

Once the plaintiff has shown that the defendant is liable, the main argument in a civil court is about the amount of money, or damages, which the defendant should pay to the plaintiff.

The procedure by which a person accused of committing a crime is charged, brought to trial, and judged.

The main part of a criminal action is the trial in which the innocence or guilt of the accused is determined. If the defendant is not found guilty, he or she will be acquitted of the charges. If the defendant is found to be guilty, a suitable punishment, such as a fine, imprisonment, or even a death sentence, will be imposed depending upon the punishment provided in the statute under which he or she was prosecuted.

Vocabulary

legal costs – судебные издержки, **pursue claim for compensation** – предъявлять иск на возмещение ущерба, **be awarded damages** - получить возмещение ущерба, **the standards of proof** – доказательная норма, **financial penalties** – штрафные санкции, **“beyond reasonable doubt”** – без сомнений, **“on the balance of probabilities”** – равенство возможностей, **vs. =versus** or against – сторона против которой ….., **be acquitted of the charges** – быть оправданным по обвинениям.

Vocabulary practice

1. to pay a fine as punishment …….. crime

2. to pay the legal costs …….. the prosecution

3. claim …… compensation …… a civil, not a criminal, action.

4. Evidence …… criminal trial

5. being sent ……. prison

6. prove the guilt …. a criminal "…….. reasonable doubt"

7. to prove case "….. the balance …… probabilities"

9. the victim …… a road accident

10. found guilty ….. the crime …….. careless driving.

11. the main argument …. a civil court is …. the amount ….money

12. be acquitted …….. the charges

13. The procedure ….. which a person accused …. committing a crime

14. be imposed depending …… the punishment

15. the punishment provided ….. the statute

16. the statute ….. which he or she was prosecuted

Speaking practice

Read the text againg and say what is main part of a criminal action? Continue the following statement: If the defendant is not found guilty, he…..

U N I T 7

P U N I S H M E N T

Before you read text 7A

Comment on the following quotations.

Let the punishment fit the crime. (Proverb)

Reading tasks

A. Understanding main points

Read text 7A and answer these questions.

1. Do you know any types of punishment?

2. Which administrative agency assists the court in the sentencing decision making process?

3. What is the principle aim of the new offender assessment system?

4. Is there any headquaters that runs probation?

5. Is it possible that a probation report may miss aggravating features of the offence not previously known to the court?

B. Understanding details

Say, whether these statements are true or false.

1. Justices consider either custody or the community sentence as a form of punishment.

2. Assessment programme assists the court in the sentencing decision making process.

3. First of all the court gives an initial indication of seriousness of a crime?

4. The principle aim of the new offender assessment system is to assess particularly high-risk offenders before they are released.

Text 7A

COURT WORK AND SENTENCING

In 2002, the National Probation Service (NPS) introduced a commonly structured offender risk assessment programme known as OASys (Offender Assessment System) which assists the court in the sentencing decision making process. OASys is now used by all courts:

-Offenders on whom the courts have requested a Presentence Repor t (PSR);

-All adult offenders on community penalties (Community Sentence orders);

- Hostel Residents on bail;

- Those released from prison on licence.

NPS records identified 244, 582 offenders as having received one or more electronic OASys assessments completed by probation staff between October 2002 and mid-January 2005. In addition there were several thousand assessments completed on the paper-based OASys system which the IT e-OASys progressively replaced, but these are not counted. The principle aim of the new offender assessment system is to ensure that particularly high-risk offenders are comprehensively assessed before they are released into the community (e.g. sexual or violent offences).

The writing of a PSR in court now involves sentencers (e.g. Magistrates) indicating to the Probation Service specific views on the offender's seriousness and perceived (future) risk to the public. This is done post-conviction, when justices consider either custody or the (generic) Community Sentence as a form of punishment. It is, of course, a matter for the court to decide if they would like to request a PSR, and if they do, the Probation Service is under statutory duty to provide one.

The court gives an initial indication of seriousness when requesting a report but may review its view of seriousness as a result of information presented to it. A probation report may uncover aggravating features of the offence not previously known to the court.

Probation also runs Probation and Bail Hostels. In 2001, there were 100 Probation Hostels, providing 2060 beds for people awaiting trial, or for people on a community sentence, or following release from prison.

The CJA 2003 defines sentencing purpose as:

• Punishment of offenders

• Reduction of crime (including by deterrence)

• Reform and rehabilitation of offenders

• Protection of the public

• Reparation.

Pre-Sentence Reports (PSR) inform the court about:

• Suggested Sentence (e.g. Community Sentence; Conditional Discharge)

• Number, frequency and length of sessions for programme requirements

• Work to be undertaken and frequency of contact for supervision requirements

• What the offender will have to do and on how many occasions attendance will be required for activity requirements

• Details of what is prohibited in prohibited activity requirements.

Vocabulary

Probation – условное гаказание**, custody** – содержание под стражей, **community sentence** – общественно полезный труд, **under statutory duty** – обязательство обозначенное законом, **initial indication** - первоначальные показания, deterrence – сдерживание, устрашение, conditional discharge – (syn. Parole) – условное освобождение, reparation - исправление, возмещение (денежное)ю

Vocabulary practice

1. assists the court …… the sentencing
2. All adult offenders …… community penalties
3. Those released …….. prison …….. licence
4. offenders are assessed ……. they are released …… the community
5. features …. the offence not previously known ….. the court.
6. people ……. a community sentence
7. following release …….. prison.

Speaking practice

What is your opinion about the statement that all types of punishment are measures designed to protect society rather than to aid the victim of the crime.

Before you read text 7B

Comment on the following quotations.

Christianity, with its doctrine of humility, of forgiveness, of love, is incompatible with the state, with its haughtiness, its violence, its punishment, its wars" (Leo Nickolaevich Tolstoy)

Reading tasks

A. Understanding main points

Read text 7B and answer these questions

1. Are there any agencies that provide standard definitions for report writing related to the seriousness of the offence?
2. Is anything new in existing community sentences and punishment orders?
3. What is new justice that was established under the Crime and Disorder Act 1998?
4. What is the function of the Parole Board?

B. Understanding details

Say, whether these statements are true or false

1. There is specific committee that provides standard definitions for report writing linked to the seriousness of the offence.
2. Probation is not involved in adult RJ programmes.
3. Victims must be informed of release arrangements and licence conditions, and should be offered support by Probation Officers.
4. There is a duty to ask victims or their families if they want to be consulted about the release arrangements. .

Text 7B

COMMUNITY SENTENCE

In April 2005, a generic Community Sentence was introduced under the CJA 2003. This provides nationally enhanced forms of 'community pun- ishment orders' supervised by Probation. In 1999, 50,417 offenders began what was formerly known as a 'Community Service Order' (Criminal Justice and Court Services Act 2000), benefiting thousands of people with millions of hours of unpaid labour (e.g. street cleaning; graffiti removal; assistance in care homes). A Community Sentence is divided into three (punishment) bands with discounts for guilty pleas. The Sentencing Guidelines Council (SGC) provides standard definitions for report writing (PSRs), linked to the seriousness of the offence. Short, Medium Long, Unpaid work 40–80 hours, 80–150 hours, 150–300 hours, Supervision up to 12 months, 12–18 months, 12–36 months, curfew up to 2 months 2–3ϭ months 4–6 months. All existing community sentences and punishment orders now have an equivalent in the new sentencing structure under the CJA 2003, as set out in the table below. The NPS has a statutory responsibility towards victims of crime. Restorative justice (RJ) was established under the Crime and Disorder Act 1998, and has been successfully practised in the youth justice reforms (CDA 1998 plus Youth Crime and Criminal Evidence Act 1999). Probation now also involved in adult RJ programmes, expanded under the CJA 2003 (in addition to the CDA 1998).

The NPS has a duty to ask victims or their families if they want to be consulted about the release arrangements for violent or sexual offenders sentenced to over 12 months. Victims will be kept informed of release arrangements and licence conditions, and should be offered support by Probation Officers. When release on licence is being considered victims views should be passed on to the appropriate body, e.g. as the Parole Board.

Vocabulary

graffiti removal – убирать графити, **discounts for guilty pleas** - учитывать признание вины, **statutory responsibility** – ответственность по закону, **Restorative justice** – реабилитирующее правосудие, **Parole Board** – комиссия по амнистии, curfew – комендантский час.

Vocabulary practice

1. with discounts ……. guilty pleas
2. standard definitions ……. report writing
3. equivalent …… the new sentencing structure
4. statutory responsibility ……. victims of crime.
5. to be consulted …….. the release arrangements ….. violent or sexual offenders
6. be informed ….. release arrangements and licence conditions
7. curfew …… …… 2 months

Speaking practice

Give example of similar agencies that involved in rehabilitation process in Russia.

Before you read text 7C

Comment on the following quotations.

Punishment is not for revenge, but to lessen crime and reform the criminal. Fry, Elizabeth

Reading tasks

A. Understanding main points

Read text 6C and answer these questions

1. What are the responsibilities and functions of Probation Board within NOM?
2. What is NOM?

3. Is it possible that the fusion of prisons and probation would take place?

4. What are the responsibilities of ROMs?

5. What are the main functions of the ROMs?

6. How do voluntary or private services assist Probation Service?

B. Understanding details

Say, whether these statements are true or false

1. Is the National Offender Management Service new organization?

2. Do community prisons and probation boards work as one organisation?

3. One of the main functions of the ROMs is to provide additional services for rehabilitation of criminals.

4. There are voluntary agencies that assist Probation Service.

5. Community punishments make offenders correct their behaviour.

Text 7C

PROBATION

The Home Office launched the National Offender Management Service (NOMS) in January 2004. It was the intention that by June 2004, the Prison and Probation services would merge under NOMS into one 'Correctional Service' of England and Wales. There was to be a cluster of 'end-to-end' offender management regions (10 in total) of community prisons into 13 prison areas and 42 probation boards as one coherent organisation.

On 20 July 2004, the Home Secretary David Blunkett announced via Martin Narey (former Commissioner for Corrections) that the fusion of prisons and probation would not now take place. The result was that the 42 Regional Probation Boards were left in place with 42 Probation Chiefs. By November 2004, ten Regional Offender Managers (ROMs) were appointed, with governance over Community Prisons, 42 Probation Areas and public, voluntary or private services to assist the 'throughcare' of offenders. Christine Knott was appointed the National Offender Manager (of NOMS) – formerly Chief Probation Officer for Greater

Manchester. One of the main functions of the ROMs is to commission additional services (e.g. drug treatment; sex offender treatment in the community; electronic tagging; supervision of probation orders etc). The Minister for Prisons and Probation, Paul Goggins, did not rule out private contractors and welcomed the assistance of voluntary agencies (e.g. Victim Support) in May 2005.

The responsibilities and functions of 42 Probation Boards within NOMS:

• Responsible enforcement of Community Sentence and punishment orders
• Risk assessment of sentenced offenders (low, medium, high);
• Encouraging Community Sentence for less serious offences
• Contracting-out additional services to assist rehabilitation of offenders
• Ensuring that community punishments make offenders address their behaviour
• Offering a crime-free path
• Law enforcement for breach of Community Sentence (via the courts).

Vocabulary

Home Office – министерство внутренних дел, probation – условное наказание, **coherent organization** – в одной цепочке (единая), **fusion** – слияние, **throughcare** - , **drug treatment** – лечение наркотическими препаратами, **electronic tagging** – электронное сопровождение, **crime-free path** – честной дорогой (непреступная деятельность), **via the courts** – через суды

Vocabulary practice

1. to be a cluster ….. ‘end-to-end’ offender management regions
2. the fusion ….. prisons and probation
3. managers were appointed ……. governance …… Community Prisons
4. risk assessment …… sentenced offenders
5. sentence ….. less serious offences
6. to assist rehabilitation ……. offenders

Speaking practice

When offenders are placed on probation, they are given rules to follow. These often include getting drug treatment, keeping a job, staying in touch with probation officers, making restitution to victims, paying court costs and not breaking the law. But people break the rules all the time. Why does it happen?

Before you red text 7D

Comment on the following quotations

Punishment of death is the war of a nation against a citizen whose destruction it judges to be necessary or useful. Cesare Beccaria

Reading tasks

A. Understanding main points

Read text 7C and answer these questions.

1. What is a capital punishment?
2. What methods of execution existed in past?
3. What type of capital punishment is typically accomplished today?
4. How many nations abolished the death penalty?
5. What is a purpose of imprisonment and fines?
6. How old is a capital punishment?
7. When did the first movement to abolish the death penalty begin?

B. Understanding details

Say, whether these statements are true or false

1. The history and practice of capital punishment is as old as government itself.
2. Although imprisonment and fines are universally recognized as necessary to the control of crime.
3. The number of nations for and against the death penalty almost equal.
5. There is an opinion that the death is a uniquely effective punishment that deters crime.
6. The first attempts to abolish the death penalty began in the 17^{th} century.
7. Death penalty as the type of punishment is a public issue

Text 7D

CAPITAL PUNISHMENT

Capital Punishment - legal infliction of death as a penalty for violating criminal law. Throughout history people have been put to death for various forms of wrongdoing. Methods of execution have included such practices as crucifixion, stoning, drowning, burning at the stake, impaling, and beheading. Today capital punishment is typically accomplished by lethal gas or injection, electrocution, hanging, or shooting.

The death penalty is the most controversial penal practice in the modern world. Other harsh, physical forms of criminal punishment–referred to as corporal punishment–have generally been eliminated in modern times as uncivilized and unnecessary. In the majority of countries, contemporary methods of punishment–such as imprisonment or fines–no longer involve the infliction of physical pain. Although imprisonment and fines are universally recognized as necessary to the control of crime, the nations of the world are split on the issue of capital punishment. About 80 nations have abolished the death penalty and an almost equal number of nations (most of which are developing countries) retain it.

The trend in most industrialized nations has been to first stop executing prisoners and then to substitute long terms of imprisonment for death as the most severe of all criminal penalties. The United States is an important exception to this trend. The federal government and a majority of U.S. states provide for the death penalty, and from 50 to 75 executions occur each year throughout the United States.

The Death Penalty Debate

The practice of capital punishment is as old as government itself. For most of history, it has not been considered controversial. Since ancient times most governments have punished a wide variety of crimes by death and have conducted executions as a routine part of the administration of criminal law. However, in the mid-18th century, social commentators in Europe began to emphasize the worth of

the individual and to criticize government practices they considered unjust, including capital punishment. The controversy and debate over whether governments should utilize the death penalty continue today.

The first significant movement to abolish the death penalty began during the era known as the Age of Enlightenment. In 1764 Italian jurist and philosopher Cesare Beccaria published *Tratto dei delitti e delle pene* (1764; translated as *Essay on Crimes and Punishments*, 1880). Many consider this influential work the leading document in the early campaign against capital punishment. Other individuals who campaigned against executions during this period include French authors Voltaire and Denis Diderot, British philosophers David Hume and Adam Smith, and political theorist Thomas Paine in the United States.

Critics of capital punishment contend that it is brutal and degrading, while supporters consider it a necessary form of retribution (revenge) for terrible crimes. Those who advocate the death penalty assert that it is a uniquely effective punishment that deters crime. However, advocates and opponents of the death penalty dispute the proper interpretation of statistical analyses of its deterrent effect. Opponents of capital punishment see the death penalty as a human rights issue involving the proper limits of governmental power. In contrast, those who want governments to continue to execute tend to regard capital punishment as an issue of criminal justice policy. Because of these alternative viewpoints, there is a profound difference of opinion not only about what is the right answer on capital punishment, but about what type of question is being asked when the death penalty becomes a public issue.

Vocabulary

capital Punishment - смертная казнь, legal infliction – наказание (по закону), crucifixion - распятие, stoning – забросать камнями, drowning - смерть от утопления. impaling –посадить на кол, corporal punishment – телесное наказание, порка, abolish - отменить, Age of Enlightenment – эпоха просвещения, retribution – возмездие, кара, раслпатаю

Vocabulary practice

1. legal infliction ….. death -
2. a penalty ….. violating criminal law -
3. people have been put ….. death …. various forms …. wrongdoing -
4. long terms …. imprisonment …. death -
5. individuals who campaigned …… executions -
6. advocates and opponents …. the death penalty dispute the proper interpretation -

Speaking practice

Several countries around the world execute offenders for drug-related crimes. Human rights activists have heavily criticised this. Several coutries retain the death penalty for murder, but not for drugs offences.What do you think about executions for drug offenses?

U N I T 8

P R I S O N

Before you read the text 8A

Comment on the following

We who lived in concentration camps can remember the men who walked through the huts comforting others, giving away their last piece of bread. They may have been few in number, but they offer sufficient proof that everything can be taken from a man but one thing: the last of the human freedoms -- to choose one's attitude in any given set of circumstances, to choose one's own way." Viktor Frankl

Reading tasks

A. Understanding main points

Read text 8A and answer these questions.

1. What does pre-release preparations mean?
2. Is the work done by the prisoners paid?
3. Do the prisoners have any opportunities to leave prison?
4. How does the government help the prisoners who work?
5. What is the purpose of home live for prisoners?

B. Understanding details

Say, whether these statements are true or false.

1. All prisons in the UK make pre-release preparations.
2. Prisoners serving long period in prisons are considered being employed before release.
3. Being employed outside the prisoners are provided with accommodation.
4. Prisoners who work are paid salary to support their families.
5. Using after-care program the probation service assists offenders on return to society.

Text 8A

DISCHARGE AND AFTER-CARE IN PRISON

All prisons in England and Wales make pre-release preparations. Prisoners serving four years or more are considered for outside employment before release. For those selected, work is found outside the prison for about the last six months of sentence: during the period prisoners may live in a separate part of the prison or in a hostel outside. Normal wages are paid so that they resume support for their families. (In Scotland prerelease arrangements differ from these in some respects.) Periods of home leave may be granted to those serving medium- or longer-term sentences to help them maintain family ties and to assist them with their resettlement. In Northern Ireland arrangements exist for prisoners serving fix sentences to have short periods of leave near the end of their sentences and at

Christmas; life sentence prisoners are given a nine-month pre-release programme which includes employment outside the prison

The aim of after-care, run by the probation service (in Scotland, the local authority social work departments), is to assist offenders on return to society. Compulsory supervision is given to most offenders under 20 when released, adult offenders released on parole, and those released on licence from a life sentence. A voluntary system is offered to others. some of which are affiliated to the National Association for the Care and Resettlement of Offenders. There is also a Scottish Association for the Care and Resettlement of Offenders. Hostels and accommodation may be provided, often with government financial help. The Northern Ireland Association for the Care and Resettlement of Offenders, also a voluntary group, is mainly concerned with assisting petty criminals and alcoholics towards rehabilitation and social awareness.

Vocabulary

pre-release preparations — приготовления перед освобождением, **a hostel outside** — общежитие на свободе, **to resume support** — оказывать поддержку, **short periods of leave** — короткие отлучки, **the aim of after-care** — цель опеки, **compulsory supervision** — принудительная опека, **the National Association for the Care and Resettlement of Offenders** — подразделение Национальной ассоциации защиты и размещения правонарушителей, **probation service** - условное наказание, **pre-release programme** – подготовительная для освобождения программа

Vocabulary practice

1. **…..** the period prisoners may live …. a separate part …. the prison
2. resume support …… their families
3. Periods ….. home leave may be granted ….. those serving medium- or longer-term sentences
4. The aim ….. after-care, run …. the probation service

5. Compulsory supervision is given to most offenders under 20 when released

6. adult offenders released on parole

7. accommodation may be provided, often with government financial help

8. mainly concerned with assisting petty criminals and alcoholics towards rehabilitation

Speaking practice

Summarizing the text say what are the useful measures to rehabilitate criminals?

Before you read the text 8B

Comment on the following

Whatever punishment does to a nation it does not induce a sense of guilt" Anne O'Hare McCormick quotes (American journalist, 1882-1954)

Reading tasks

A. Understanding main points

Read text 8B and answer these questions.

1. What is the purpose of imprisonment?

2. What is meant by prison privatisation?

3. How far can the emergence of the penitentiary of the mid

19th century be considered a success or failure?

4. What are the changes in sentencing, and the increase in sentences?

5. What are the Prison Service's aims and objectives?

6. How would you explain the growth of imprisonment?

B. Understanding details

Say, whether these statements are true or false.

1. In Mediavil England the most punishment were designed to publicly shame.

2. Until the early 19th century, the penitentiary was not very often used as punishment.

3. Many people died of diseases caused by badly maintainance.

4. The first ‘modern’ prison in England was London’s Pentonville Prison which is still in use today.

5. The prison estate includes high security prisons of different categories.

6. The increase in the prison population over the past decade can largely be attributed to the increase in sentence length.

7. The Prison Service has the aims and objectives providing protecting society from criminals and reducing crime with constructive regimes.

8. There is only one type of life sentence.

9. Now the Human Rights Act 1998 includes the most important rights of citizens.

Text 8B

HISTORY OF IMPRISONMENT

Most sanctions for ‘convicts’ during the 16th and 17th centuries tended to be community events, designed to publicly shame the offender in order to deter others (deterrence theory). Some of these public events included the ducking stool, the pillory, whipping, branding and the stocks. Until the early 19th century, the penitentiary (prison) was very rarely used as punishment in its own right. Evidence suggests that local ‘gaols’ during this period were badly maintained and often controlled ‘privately’ by negligent ‘gaolers’. Many people died of diseases like gaol fever, a form of typhus. The first ‘modern’ Benthamite starshaped prison in England was London’s Pentonville Prison which is still in use today. Pentonville was built between 1842–44, using the panoptical design. It was originally designed to hold 520 prisoners (male and female), each held in a cell measuring 13 feet long, 7 feet wide and 9 feet high. The use of solitary confinement (‘separate and silent system’) for ‘rule infractions’ was the prison system: organization and structures by 2005, there were 140 prison establishments in England and Wales, run by the government (Home Office) agency, Her Majesty’s Prison Service (HMPS), presently known as the National Offender Management Service

(NOMS), now comprising prison and probation services. The prison estate includes high security prisons (also known as Category A), local and remand prisons (Category B), training prisons (Category C), Young Offender Institutions (YOIs) (for sentenced prisoners under the age of 21), open and semi-open prisons (Categories D and E) and some remand centres.

The use of custody. The increase in the prison population over the past decade (since 1994) can largely be attributed to the increase in sentence length by justices, particularly for 'serious offences' (e.g. drug trafficking). But other offences were attracting longer sentences too: by 2004, first-time domestic burglars were twice as likely to receive a custodial sentence than, say, some eight years previously. At the same time, the number of short sentences had also increased. The HM Prison Service has the following aims and objectives:

• To protect the public by holding those committed by the courts in a safe, decent and healthy environment

• To reduce crime by providing constructive regimes which address offending behaviour, improve educational work abiding behaviour in custody and after release.

Female prisoners. The number of female prisoners has more than tripled over the past decade. In 1993 the female prison population stood at 1580. At 26 March 2004 there were 4589 women in prison representing about 6% of the total prisoner population in England and Wales. Women represent 51.3% of the overall population in England and Wales. There were 4461 females in custody on Friday 7 November 2004 – a slight drop. It is worth noting that fewer than 20% of women have committed crimes of violence; the Howard League and the Prison Reform Trust have long argued that most women are no danger to the public and should not serve a prison sentence at all, especially since many women have to run their families from inside prison (looking after children or elderly parents).

Life-sentence prisoners. The number of life-sentence prisoners ('lifers') has increased. By November 2003, there were 5475 prisoners serving life sentences. This compared with fewer than 4000 in 1998, and 3000 in 1992. This means that

England has not only the highest imprisonment rate in industrialised Western Europe, but also one of the highest lifer populations. On 28 February 2005, there were 5792 prisoners serving a life sentence (5606 men; 186 women; 186 young offenders). There are several types of life sentence:

• Mandatory Life Sentence
• Discretionary Life Sentence
• Automatic Life Sentence
• Imprisonment for Public Protection (IPP)
• Detention for Life
• Tariff
• Release on Life Licence
• Supervision and Recall.

Private prisons. Public–private partnerships have long been established in Britain in private prison management (so-called Private Finance Initiative – PFI). Since the inception of Britain's first private prison, HMP Wolds near Hull in 1992 (with the legal backing of the CJA 1991), it has been established that private sector involvement in the HM Prison Service and the Scottish Prison Service have helped to drive costs down and improve performance in the prisons run by the public sector.

Prisoners and human rights. There have been a large number of human rights legal challenges (before the English and the Strasbourg Human Rights Court) objecting to the treatment of prisoners whilst in custody contra the Prison Rules 1999 (The Prison Rules 1964 were rewritten after the Human Rights Act 1998). Now with the Human Rights Act 1998 fully in place, the following are the main ECHR-articles which influence and impact on prisons and the prisoner:

• Article 2: right to life
• Article 3: prohibits the use of torture and the infliction of degrading or inhumane treatment and/or punishment
• Articles 5 and 6: aimed primarily at the conduct of criminal proceedings
• Article 7: places strict limitations on retrospective criminal laws

• Articles 9 and 10: focus on the freedom of thought, conscience, religious belief and expressions.

Prisoners continue being ill treated and racially abused within prisons.

In September 2001, three prison officers were convicted of ill-treating prisoners in Wormwood Scrubs Prison, during the 1990s. The Director of the Prison Service, Martin Narey raised the issue of prison overcrowding and inhumane and 'immoral' treatment in the English prisons during the Prison Governor's Association (PGA) annual conference in February 2001. Narey threatened to resign unless prison governors fully supported his plans to improve failing jails. Commissioner of the National Offender Management Service (NOMS), Martin Narey, then announced in July 2005, that he was leaving NOMS to become Chief Executive of Barnardo's children's charity, due to his 'disenchantment with NOMS' (Source: BBC News Online, 1 July 2005).

Vocabulary

the ducking stool – позорный стул (к нему привязывали женщин дурного поведения или мошенников и опускали в воду), **pillory** – пригвоздить к позорному столбу, **whipping** - порка, **the penitentiary** –исправительное учреждение, '**gaols'** –тюремное заключение, **the panoptical design** – выявляющий все элементы объекта , **prison estat**e – территория тюрьмы, **sentence length** -срок, **more than tripled over** – в три раза больше, **life-sentence** – пожизненное заключение, **Mandatory Life Sentence** – окончательное (неподлежащее обжалованию), **Discretionary Life Sentence** – дискреционный (на усмотрение), **Automatic Life Sentence** –автоматический (не зависящий от воли..) , **Detention for Life** – заключение под стражу пожизненно, **Tariff** - пошлина, **Release on Life Licence** – освобождение от пожизненного заключения.

Vocabulary practice

1. used as punishment ……. its own right
2. people died ……. diseases
3. London's Pentonville Prison which is still ….. use today.
4. The increase …. the prison population …. the past decade
5. …… sentenced prisoners …… the age …… 21
6. to protect the public …… holding
7. to reduce crime ….. providing constructive regimes
8. women have committed crimes …… violence
9. many women have to run their families …… inside prison
10. several types ……. life sentence
11. imprisonment ….. Public Protection
12. detention …… life
13. to drive costs … and improve performance …. the prisons run .. the public sector
14. objecting …. the treatment …. prisoners whilst …. custody
15. aimed primarily …. the conduct ….. criminal proceedings
16. being ill treated and racially abused ….. prisons
17. the issue ….. prison overcrowding and inhumane and 'immoral' treatment

Speaking practice

Here you need to look at the history of the prison, and give reasons why the prison continues to be so 'popular'. Use some of the learned information.

U N I T 9

JUVENILE DELIQUENCY

Before you read text 9A

Comment on the following

Juvenile delinquency would disappear if kids followed their parent's advice instead of their example

Reading tasks

A. Understanding main points

Read text 8B and answer these questions.

1. What is the main objective of the juvenile justice system?
2. What are the main problems young people face?
3. What are the arguments about juvenile justice system?
4. What are violent subcultures and children traumas caused by?
5. Who could more closely supervise children and rehabilitation efforts?

B. Understanding details

Say, whether these statements are true or false.

1. The main objective of the juvenile justice system is to rehabilitate children, rather than punish them.
2. There many people willing to abolish this system.
3. Is it better to punish a juvenile in the first instance to deter future criminal activity?
4. Is it wrong for juvenile offenders who have committed violent crimes to be released from the jurisdiction of the juvenile court at age eighteen or twenty-one?
5. The punishment for a crime should be the same regardless of the age of the perpetrator?

Text 9A

SHOULD THE JUVENILE JUSTICE BE ABOLISHED

The juvenile justice system seeks to rehabilitate children, rather than punish them for their juvenile criminal behavior. Since the late 1970s, critics of the juvenile courts have sought to abolish this system, arguing that it has failed in its rehabilitation efforts and in not punishing serious criminal behavior by young people. At the same time, defenders of the juvenile justice system contend that for the vast majority of children, the system is a worthwhile means of addressing problems. They maintain that a handful of violent juveniles who have committed serious crimes should not lead the public to believe that the system does not provide ways of changing behavior.

Critics note that the social and cultural landscape has changed considerably since the early 1900s when the juvenile justice system was established. Drugs, gangs, and the availability of guns have led to juveniles committing many serious crimes, including murder. Critics insist that juvenile courts are no longer adequate to address problems caused by violent, amoral young people.

Some argue that the perceived leniency of the juvenile justice system compounds its failure to rehabilitate by communicating to young people that they can avoid serious consequences for their criminal actions. The system engenders a revolving-door process that sends the message that young offenders are not accountable for their behavior. It is not until these repeat offenders land in adult criminal courts that they face real punishment for the first time. Thus, it may be better to punish a juvenile in the first instance, in order to deter future criminal activity.

Critics also claim it is wrong for juvenile offenders who have committed violent crimes to be released from the jurisdiction of the juvenile court at age eighteen or twenty-one. Serving a few years in a juvenile correction facility for a crime that if committed by an adult would result in a ten-year sentence is unjust. The punishment for a crime, argue critics, should be the same, regardless of the age of the perpetrator.

Because of these deficiencies, critics contend, the system should be dismantled. Juveniles should be given full due process rights, including the right to trial by jury, just like adults. Freed from the juvenile justice system's rehabilitative ideology and restrictions on criminal due process rights, juveniles should stand accountable for their criminal actions. Once a juvenile is convicted, a trial court can determine the appropriate sentence.

Defenders of juvenile justice respond that a small minority of violent youths have created the misperception that the system is a failure. Though not every child can be rehabilitated, it is unwise to abandon the effort. In every other sphere of society, children are treated differently from adults. For the few juveniles who commit serious crimes and have poor prospects for rehabilitation, current laws provide that they be transferred to adult criminal courts. Allowing this alternative is a wiser course, defenders insist, than dismantling the system.

Defenders also contend that many of the alleged defects of the juvenile courts can be traced to inadequate funding and to the environment in which many juveniles are forced to live. They point out that violent subcultures and early childhood traumas caused by abuse, neglect, and exposure to violence make it more difficult to address individual problems. If the system were adequately funded, Probation officers and court support personnel could more closely supervise children and rehabilitation efforts. If more energy were put into changing the socioeconomic situation of communities, rehabilitation efforts would improve and crime would decrease.

According to system supporters, placing juveniles in prison will not end the cycle of criminal behavior. The opposite result is more likely, for a teenager may feel stigmatized by a criminal conviction and may believe he is a lost cause, resulting in a return to crime. In addition, the huge amounts expended on incarceration could be better spent on counseling, education, and job training.

Defenders of the juvenile justice system argue that a criminal conviction can engender difficulties in obtaining employment and in negotiating other aspects of life. It is wrong, they contend, to label a person so early in life, for an action that

may have been impulsive or motivated by peer pressure. Preserving the juvenile justice system allows many teenagers to learn from their mistakes without prejudicing their adulthood.

Finally, defenders note that many states have changed their laws to deal more severely with violent juvenile offenders. As long as there are ways of diverting these offenders into the adult system, defenders insist, the current juvenile justice system should be maintained.

Vocabulary

juvenile justice system – система правосудия для несовершеннолетних, **to abolish** - отменить, **the perceived leniency** – необходимая снисходительность, **to abandon the effort** – оставить попытку (отказаться)

Vocabulary practice

1.to punish …. juvenile criminal behavior

2. the system is a worthwhile means ….. addressing problems

3. problems caused …. violent, amoral young people

4. to rehabilitate ….. communicating to young people

5. young people can avoid serious consequences …. their criminal actions

6. violent subcultures and early childhood traumas caused … abuse, neglect, and exposure …. violence

7. , placing juveniles …prison will not end the cycle …. criminal behavior

8. ways …. diverting these offenders …. the adult system

Speaking practice

Summing the text up say does Russia also have a law on juvenile delinquency. Do you think speaking about this problem we should take into consideration that the tremendous changes in the social and economic spheres in Russia, together with the extremely negative trends in the overall structure of crime since the dissolution of the Soviet Union, have drawn attention away from juvenile delinquency.

Before you read text 9B

Comment on the following

If you don't know where you are going, any road will get you there Lewis Carroll

Reading tasks

A. Understanding main points

Read text 9B and answer these questions.

1. When and where did legal history of juvenile justice begin?
2. What does statistics of juvenile delinquency show?
3. Are any changes in juvenile justice?
4. Is trying juveniles as adults effective measure?
5.

B. Understanding details

Say, whether these statements are true or false.

1. The world's first juvenile court opened in the USA.
2. Maturity and character were two main elements taken into account for establishing juvenile court.
3. The juvenile delinquency rate is decreasing since the end of the 20^{th} century.
4. A new approach for juvenile crimes became more tougher.
5. New tougher measures mean lower age when juveniles can automatically be tried as adults.

Text 9B

TRYING JUVENILE AS ADULTS

In 1899 the U.S. made legal history when the world's first juvenile court opened in Chicago. The court was founded on two basic principles. First, juveniles lacked the maturity to take responsibility for their actions the way adults could. Second, because their character was not yet fully developed, they could be rehabilitated more successfully than adult criminals. More than a century later,

these principles remain the benchmarks of juvenile justice in the United States.

In recent years, however, a growing number of juvenile criminals are being tried as adults—much the way they might have been before the advent of juvenile courts. In part this stems from public outrage against children who, in increasing numbers, are committing violent crimes. Interestingly, the overall rate of juvenile crime has been decreasing since 1995. When people see gruesome images on television, such as the Columbine High School shootings in Littleton, Colorado, or the Springfield, Oregon, rampage of 15-year-old Kip Kinkel (who shot both his parents and two classmates), their impression is that juvenile crime is out of control.

Since the early 1990s many states have adopted a "get tough" approach to juvenile justice as a response to the increasingly violent crimes committed by children. As of 2003 many states had adopted legislation that permits more children to be tried as adults. All states have a provision allowing prosecutors to try juveniles as young as 14 as adults under certain circumstances. In some states, such as Indiana, South Dakota, and Vermont, children as young as 10 can be tried as adults.

An example of a "get tough" law is Michigan's Juvenile Waiver Law of 1997. This measure lowered the age that juveniles can automatically be tried as adults. In adopting this law, the state has taken away some of the judge's discretion in deciding whether a minor should be tried as a child or as an adult. Factors such as criminal history, psychiatric evaluation, and the nature of the offender's actions carry less weight when the judge is forced to enter an automatic adult plea.

Another example is California's Proposition 21, which was passed in 2000. This law permits prosecutors to send many juveniles accused of felonies directly to adult court. In effect, the prosecutors are the ones who decide whether a minor should be tried and sentenced within the adult system; this takes away the judge's discretion. Proposition 21 also prohibits the use of what was known as "informal probation" in felonies. This type of probation was offered to first-time juvenile offenders who admitted their guilt and attempted to make restitution. Finally, the

proposition requires known gang members to register with police agencies and increases the penalties for crimes such as vandalism.

The U.S. Justice Department shows that prosecutors are actively putting these new tougher laws to use against juvenile offenders. A Justice Department study released in 2000 states that violent juvenile offenders are more likely to serve out their sentences in an adult prison than they would have been in 1985. With two million adults currently incarcerated in prison, the number of juveniles in adult facilities is a minuscule percentage; 7,400 juvenile offenders were serving time in an adult facility as of 1997, according to the Justice Department. That number, however, is more than double the number of juveniles in adult prisons in 1985.

The question of whether trying juveniles as adults is effective has generated considerable interest. Some studies have suggested that instead of solving a problem, trying juveniles in adult settings may be making things worse. Juveniles who serve time with adults have a higher recidivism rate than those who serve with other juveniles. Moreover, juvenile recidivists from adult facilities were more likely to commit more violent crimes than their counterparts in juvenile centers. Groups such as Human Rights Watch have complained that prison conditions for juveniles in adult prisons are poor and that juveniles in adult facilities are more likely to be assaulted or abused by other prisoners.

Putting aside the debate over whether minors belong in adult prisons, there is no question that the practice had gained support and was in the early 2000s accepted by people who might have balked 20 years earlier. Whether the new "get tough" policy so many states embrace would work remained to be seen, but it was certainly expected to stay.

Vocabulary

maturity – наступивший срок исполнения обязательства, gruesome images – отвратительный образ, **a "get tough" approach** - решительный (жесткий) подход, **be tried as adults** – быть судимым как взрослый, **outrage** – грубое

нарушение закона или чьих либо прав, **psychiatric evaluation** – психиатрическая экспертиза, **the judge's discretion** – полномочия судьи, **tougher laws** –жесткие законы, **incarcerated in prison** – заключенный в тюрьме

Vocabulary practice

1. to take responsibility ……. their actions
2. benchmarks ….. juvenile justice …… the United States
3. a growing number …… juvenile criminals
4. being tried …… adults
5. ……. the advent ……. juvenile courts.
6. public outrage …….. children
7. a response …….. the increasingly violent crimes
8. adults currently incarcerated …… prison
9. the number ….. juveniles ……. adult facilities
10. prison conditions ….. juveniles …… adult prisons
11. to be assaulted or abused …… other prisoners

Speaking practice

Summarize the information given in the text and comment the following words. “We must first of all, study the causes, then effects and latter solutions to the societal challenges before us and our children these days.”

Before you read text 9C

Comment on the following

"Without justice, courage is weak." Benjamin Franklin

Reading tasks

A. Understanding main points

Read text 9C and answer these questions.

1. What is a new understanding of children?
2. What did progressive theory declare?
3. What is known as Parens Patriae?
4. What is the age of criminal responsibility?
5. Who composes the troubled youths?
6. What does the juvenile court focus on?

B. Understanding details

Say, whether these statements are true or false.

1. There is a new understanding of children given many experts.
2. Children should not be considered innocent and vulnerable and as lacking the mental state.
3. Juvenile crime rates were quite low some centuries ago.
4. Juveniles are rehabilitated instead of punished according new justice.
5. The juvenile court additional authority supports to control a variety of troubled youths.

Text 9C

COURTS. PENITENTIARY

Social, psychological, and behavioral experts proposed a new understanding of children based on their youth. The progressive theory declared that children should be considered innocent and vulnerable and as lacking the mental state required for them to be held responsible for a criminal offense because they have not acquired the wisdom that comes with age. It followed that juveniles should not be punished for their criminal behavior. Instead, they should be reformed, rehabilitated, and educated.

Juvenile crime was an important element, but not the driving force, behind the creation of the juvenile courts. Juvenile crime rates were quite low in the nineteenth century. Progressives claimed that the biggest problems facing children

were neglect and poverty. The industrial revolution caused an increase in the number of urban poor. As poverty increased, so did the incidence of child abandonment, neglect, and abuse. This situation led to a political push for states to protect those who were in distress.

The perception of the government as a surrogate parent, known as Parens Patriae, also led to the formulation of status offenses. These offenses derived from the idea that the government should help shape the habits and morals of juveniles. Status offenses reflected the notion that state control of juveniles should not be limited to enforcement of the criminal laws. Instead, the state would have additional authority to prohibit a wide variety of acts that were considered precursors to criminal behavior. The progressive theory won widespread support, and legislatures set to the task of conforming the legal system to the new understanding of children. The Illinois legislature was the first to create a separate court for children. The Juvenile Court Act of 1899 created the first juvenile court and established a judicial framework that would serve as a model for other states. The Illinois act raised the age of criminal responsibility to 16 years. This action meant that no person under the age of 16 could be prosecuted in adult court for a crime. Children accused of a crime would instead be brought to juvenile court. The Illinois act gave the juvenile court additional authority to control the fate of a variety of troubled youths. These young people included: any child who for any reason is destitute or homeless or abandoned; or dependent on the public for support; or has not proper parental care or guardianship; or who habitually begs or receives alms; or who is found living in any house of ill fame or with any vicious or disreputable person … and any child under the age of 8 years who is found peddling or selling any article or singing or playing any musical instrument upon the street or giving any public entertainment. The Illinois act also created a new system for the disposition of juveniles. The act specified that all children found to be within the jurisdiction of the court should be given a level of care and discipline similar to "that which should be given by its parents". In all cases the court would attempt to place the child with a foster family or a court-approved family

responsible for the custody of the child. If foster placement was not accomplished, the child would be placed in a reform school, where he or she would work and study. Juveniles found to be within the jurisdiction of the court remained under the court's control until the age of 21.

The terminology created for juvenile court was based on the terminology used in civil rather than criminal court. This language helped establish a nonthreatening environment. Juveniles were not charged by an indictment, as they would have been charged in adult court; rather, they were brought before the juvenile court by way of a petition. Juveniles were not arraigned by the court at their first appearance; instead, they were held to appear for an intake hearing. The process was not called a trial but an adjudication or a hearing. A juvenile found by the court to have committed a crime was not found guilty but was adjudged delinquent. Finally, instead of fashioning a sentence proportionate to the offense, the juvenile court disposed of the case by focusing on the best interests of the child. This terminology was used in every case, whether the petition concerned a juvenile charged with a crime or a juvenile in need of services or protection.

The Illinois act spawned similar acts in other states, and soon the progressive theory was put into practice across the United States. Juveniles were rehabilitated instead of punished; placed under the control of a juvenile court for a wide range of circumstances, some beyond their own control; and diverted from adult courts and prisons into an informal, relaxed system.

Vocabulary

vulnerable - незащищенный, **neglect** - пренебрегать, **abandonment** – отказ (от претензии, иска, права), **Parens Patriae** –опекун, которого назначает государство, **adjudication** - вынесение судебного решения

Vocabulary practice

1. a new understanding ……. children based ….. their youth.

2. to be held responsible ……. a criminal offense

3. to protect those who were ……. distress

4. shape the habits and morals ……. juveniles

5. the age ……. criminal responsibility

6. juveniles charged ……. an indictment

7. be charged …… adult court

8. the juvenile court disposed …. the case …. focusing …. the best interests ….. the child

9. a juvenile charged ….. a crime

10. a juvenile ….. need …… services or protection

Speaking practice

Summurize the information from the text and give any information about juvenile justice system in Russia.

PART 3
CONSTITUTIONAL LAW

U N I T 1

HISTORY OF CONSTITUTIONAL LAW

Before you read text 1A

Comment on the following quotations.

1. Nobody has a more sacred obligation to obey the law than those who make the law. (Sophocles)

2. The Constitution is not what the Court says it is. Rather it is what the people…eventually allow the Court to say it is.

Reading tasks

A. Understanding main points

Read text 1A and answer these questions.

1. What does constitutional law consist of?

2. What ideas promoted modern constitutional law?

3. What has become the main concern of supranational institutions since the mid-20th century?

4. How can a constitution be defined?

5. What forms may a constitution take?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. Constitutional law always originates from domestic sources.

2. The rules spelled out in the constitution are considered to be basic and all other rules must conform to them.

3. The state has been the most important political community in modern times.

4. A constitution includes the rules that define the structure and operation of the

government that runs the community.

5. A constitution may both define the authorities endowed with powers to command and delimit those powers in order to secure against them certain fundamental rights of persons or groups.

Text 1A

NATURE OF CONSTITUTIONAL LAW

Constitutional law consists of the body of rules, doctrines, and practices that govern the operation of political communities. In modern times the most important political community has been the state. Modern constitutional law is the offspring of nationalism as well as of the idea that the state must protect certain fundamental rights of the individual. As the number of states has multiplied, so have constitutions and with them the body of constitutional law, though sometimes such law originates from sources outside the state. The protection of individual rights, meanwhile, has become the concern of supranational institutions, particularly since the mid-20th century.

In the broadest sense a constitution is a body of rules governing the affairs of an organized group. A parliament, a church congregation, a social club, or a trade union may operate under the terms of a formal written document labeled a constitution. Not all of the rules of the organization are in the constitution; many other rules (e.g., bylaws and customs) also exist. By definition the rules spelled out in the constitution are considered to be basic, in the sense that, until they are modified according to an appropriate procedure, all other rules must conform to them. Thus, the presiding officer of an organization may be obliged to declare a proposal out of order if it is contrary to a provision in the constitution. Implicit in the concept of a constitution is the idea of a “higher law” that takes precedence over all other laws.

Every political community, and thus every state, has a constitution, at least insofar as it operates its important institutions according to some fundamental body

of rules. By this conception of the term, the only conceivable alternative to a constitution is a condition of anarchy. Nevertheless, the form a constitution may take varies considerably. Constitutions may be written or unwritten, codified or uncodified, and complex or simple, and they may provide for vastly different patterns of governance. In a constitutional monarchy, for example, the sovereign's powers are circumscribed by the constitution, whereas in an absolute monarchy the sovereign has unqualified powers.

A political community's constitution articulates the principles determining the institutions to which the task of governing is entrusted, along with their respective powers. In absolute monarchies, as in the ancient kingdoms of East Asia, the Roman Empire, and France between the 16th and 18th centuries, all sovereign powers were concentrated in one person, the king or emperor, who exercised them directly or through subordinate agencies that acted according to his instructions. In ancient republics, such as Athens and Rome, the constitution provided, as do the constitutions of most modern states, for a distribution of powers among distinct institutions. But whether it concentrates or disperses these powers, a constitution always contains at least the rules that define the structure and operation of the government that runs the community.

A constitution may do more than define the authorities endowed with powers to command. It may also delimit those powers in order to secure against them certain fundamental rights of persons or groups. The idea that there should be limits on the powers that the state may exercise is deeply rooted in Western political philosophy. Well before the advent of Christianity, Greek philosophers thought that, in order to be just, positive law – the law actually enforced in a community – must reflect the principles of a superior, ideal law, which was known as natural law. Similar conceptions were propagated in Rome by Cicero (106–43 BC) and by the Stoics. Later the Church Fathers and the theologians of Scholasticism held that positive law is binding only if it does not conflict with the precepts of divine law. These abstract considerations were received to a certain extent in the fundamental rules of positive legal systems. In Europe during the

Middle Ages, for example, the authority of political rulers did not extend to religious matters, which were strictly reserved to the jurisdiction of the church. Their powers also were limited by the rights granted to at least some classes of subjects. Disputes over the extent of such rights were not infrequent and sometimes were settled through solemn legal "pacts" between the contenders, such as Magna Carta (1215). Even the "absolute" monarchs of Europe did not always exercise genuinely absolute power. The king of France in the 17th or 18th century, for example, was unable by himself to alter the fundamental laws of the kingdom.

Vocabulary notes

offspring (n) – продукт, результат

conceivable (adj) – возможный, мыслимый, постижимый

implicit (adj) – подразумеваемый, не выраженный прямо, скрытый

distribution of powers – разграничение компетенции

positive law – действующее право

to disperse (v) – распространять

to run the community – руководить/управлять государством

to endow (v) – давать, предоставлять, облекать

contender (n) – соперник, кандидат, претендент

Before you read text 1B

Comment on the following quotations.

1. Good people do not need laws to tell them to act responsibly, while bad people will find a way around the laws. (Plato)

2. Bad laws are the worst sort of tyranny. (Edmund Burke)

Reading tasks

A. Understanding main points

Read text 1B and answer these questions.

1. What caused a decisive turn in the history of Western constitutional law?

2. What was a potent factor in the reshaping of the constitutions of Western countries in the 17-19th centuries?

3. What was the theory of natural law based on?

4. What is similar among modern constitutions in spite of their great differences?

5. Constitutions of what countries lacked the individualistic ideals that permeate modern Western constitutional law?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. The English philosopher John Locke worked out a theory of natural law.

2. “Inalienable rights” of the individual include such rights as the right to acquire and possess property, the right to express one’s opinions in public.

3. Today almost all modern nations have constitutions that describe the fundamental bodies of the state, the ways they should operate, and the rights they must respect.

4. The British idea that the basic rules that guide the operations of government should be stated in an orderly, comprehensive document quickly became popular in Europe.

5. The constitutions of the former communist countries subordinated individual freedoms to the goal of achieving a classless society.

Text 1B

DEVELOPMENT OF CONSTITUTIONAL LAW

Against the background of existing legal limitations on the powers of governments, a decisive turn in the history of Western constitutional law occurred when political philosophers developed a theory of natural law based on the “inalienable rights” of the individual. The English philosopher John Locke (1632–1704) was an early champion of this doctrine. Others followed Locke, and in the 18th century the view they articulated became the banner of the Enlightenment.

These thinkers asserted that every human being is endowed with certain rights – including the rights to worship according to one's conscience, to express one's opinions in public, to acquire and possess property, and to be protected against punishment on the basis of retroactive laws and unfair criminal procedures – that governments cannot "take away" because they are not created by governments in the first place. They further assumed that governments should be organized in a way that affords effective protection for individual rights. Thus, it was thought that, as a minimal prerequisite, governmental functions must be divided into legislative, executive, and judicial; executive action must comply with the rules laid down by the legislature; and remedies, administered by an independent judiciary, must be available against illegal executive action.

The doctrine of natural rights was a potent factor in the reshaping of the constitutions of Western countries in the 17th, 18th, and 19th centuries. An early stage of this process was the creation of the English Bill of Rights (1689), a product of England's Glorious Revolution. All these principles concerning the division of governmental functions and their appropriate relations were incorporated into the constitutional law of England and other Western countries. England also soon changed some of its laws so as to give more adequate legal force to the newly pronounced individual freedoms.

In the United States the doctrine of natural rights was even more successful. Once the American colonies became independent states (in 1776), they faced the problem of giving themselves a fresh political organization. They seized the opportunity to spell out in legal documents, which could be amended only through a special procedure, the main principles for distributing governmental functions among distinct state agencies and for protecting the rights of the individual, as the doctrine of natural rights required. The federal Constitution – drafted in 1787 at a Constitutional Convention in Philadelphia to replace the failing Articles of Confederation – and its subsequent Bill of Rights (ratified in 1791) did the same at the national level. By formally conferring through these devices a higher status on rules that defined the organization of government and limited its legislative and

executive powers, U.S. constitutionalism displayed the essential nature of all constitutional law: the fact that it is “basic” with respect to all other laws of the legal system. This feature made it possible to establish institutional controls over the conformity of legislation with the group of rules considered, within the system, to be of supreme importance.

The American idea that the basic rules that guide the operations of government should be stated in an orderly, comprehensive document quickly became popular. From the end of the 18th century, scores of countries in Europe and elsewhere followed the example of the United States; today nearly all states have constitutional documents describing the fundamental organs of the state, the ways they should operate, and, usually, the rights they must respect and even sometimes the goals they ought to pursue. Not every constitution, however, has been inspired by the individualistic ideals that permeate modern Western constitutional law. The constitutions of the former Soviet Union and other communist countries subordinated individual freedoms to the goal of achieving a classless society. Notwithstanding the great differences between modern constitutions, however, they are similar at least in one respect: they are meant to express the core of the constitutional law governing their respective countries.

Vocabulary notes

inalienable rights – неотъемлемые права

the Enlightenment (n) – эпоха Просвещения

retroactive law – закон, имеющий обратную силу

champion (n) – поборник, защитник

to worship (v) – исповедовать (религию)

prerequisite (n) – необходимое условие, предпосылка

to permeate (v) – проникать

to pursue goals – преследовать цели

notwithstanding (prep) – несмотря, вопреки

Vocabulary practice

Match these terms with their definitions.

1. constitutional law	a) imposing an obligation or duty;
2. government (n)	b) ensure observance of laws and rules;
3. doctrine of natural rights	c) regulation of how the law itself operates and of the relation between private citizen and government;
4. binding (adj)	d) the executive policy-making body of a country or state;
5. constitution (n)	e) a body of law or a specific principle of law that is held to be derived from nature and binding upon human society in the absence of or in addition to positive law;
6. enforce (v)	f) authority conferred by office;
7. powers (n)	g) the basic principles and laws of a nation, state, or social group that determine the powers and duties of the government and guarantee certain rights to the people in it;
8. natural law	h) a theory that posits the existence of a law whose content is set by nature and that therefore has validity everywhere.

Complete the following text with the words and phrases listed below.

law of the land; international; government; public affairs; codified; to regulate; statutory law; public law; rules; relationships; exercise power; powers; enforcement; citizen; authorities

Constitutional law is the branch of (1) … … of a nation or state which treats the organization, (2) … and frame of (3) …, the distribution of political and governmental (4) … and functions, the fundamental principles which are (5) … the

relations of government and (6) …, and which prescribes generally the plan and method according to which the (7) … … of the nation or state are to be administered.

Not all nation states have (8) … constitutions, though all such states have a jus commune, or (9) … …, that may consist of a variety of imperative and consensual (10) … . These may include customary law, conventions, (11) … …, judge-made law or (12) … rules and norms.

Constitutional law may often be considered second order rulemaking or rules about making rules to (13) … … . It governs the relationships between the judiciary, the legislature and the executive with the bodies under its authority. One of the key tasks of constitutions is to indicate hierarchies and (14) … of power. When a constitution establishes a federal state, it will identify the several levels of government coexisting with exclusive or shared areas of jurisdiction over lawmaking, application and (15) … .

Speaking practice

1. Find information and speak about early sources of law in the history of our country.

2. Speak about an outstanding lawgiver who had played a great role in Russia's history.

UNIT 2

FORMS OF CONSTITUTIONS

Before you read text 2A

Comment on the following quotations.

1. No man is above the law and no man is below it; nor do we ask any man's permission when we ask him to obey it. Obedience to the law is demanded as a

right; not asked as a favor. (Theodore Roosevelt)

2. A country is in a bad state, which is governed only by laws; because a thousand things occur for which laws cannot provide, and where authority ought to interpose. (Samuel Johnson)

Reading tasks

A. Understanding main points

Read text 2A and answer these questions.

1. What countries of the modern world lack codified constitutions?
2. What are some advantages of codified constitutions?
3. What is required to make a constitutional amendment?
4. What constitutes a so-called unconstitutional constitutional law?
5. Why is the Constitution of India unique?
6. What constitutes the British constitutional law?
7. What nations do Anglosphere countries consist of?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. Codified constitutions may be the product of some dramatic political changes, such as a revolution.
2. In the modern world uncodified constitutions are more numerous.
3. In states using uncodified constitutions, there is no difference between constitutional law and statutory law.
4. All modern constitutions provide that their most basic principles can be abolished by amendment.
5. As a rule, in states with codified constitutions the constitution has supremacy over ordinary statute law.
6. Unlike uncodified constitutions, codified constitutions may include both written and unwritten sources.

Text 2A

CODIFIED CONSTITUTION VERSUS UNCODIFIED

A fundamental classification of constitutions considers codification or lack of codification. A codified constitution is one that is contained in a single document, which is the single source of constitutional law in a state. An uncodified constitution is one that is not contained in a single document, consisting of several different sources, which may be written or unwritten.

Most states in the world have codified constitutions. Only three have uncodified constitutions: Israel, New Zealand, and the United Kingdom. The most obvious advantages of codified constitutions are that they tend to be more coherent and more easily understood, as well as simpler to read. However, although codified constitutions are relatively rigid, they still yield a potentially wide range of interpretations by constitutional courts.

Codified constitutions are often the product of some dramatic political change, such as a revolution. For example, the United States Constitution was written and subsequently ratified less than 25 years after the American Revolution. The process by which a country adopts a constitution is closely tied to the historical and political context driving this fundamental change. This becomes evident when one compares the elaborate convention method adopted in the United States, with the MacArthur-inspired post war constitution foisted on Japan. The legitimacy of codified constitutions has often been tied to the process by which they are initially adopted.

States that have codified constitutions normally give the constitution supremacy over ordinary statute law. That is, if there is any conflict between a legal statute and the codified constitution, all or part of the statute can be declared ultra vires by a court, and struck down as unconstitutional. In addition, an extraordinary procedure is often required to make a constitutional amendment. These procedures may involve: obtaining ⅔ majorities in the national legislature,

the consent of regional legislatures, a referendum process, or some other procedure that makes obtaining a constitutional amendment more difficult than passing a simple law.

Constitutions may also provide that their most basic principles can never be abolished, even by amendment. For example, the German Federal Constitution provides that the provisions according to which the country has to be a democratic, federal, and social republic, in which all state powers have to leave dignity of man inviolable, where rule of law prevails, and where sovereignty lies with the people, may not be altered. In case a formally valid amendment of a constitution infringes these principles protected against any amendment, it may constitute a so-called unconstitutional constitutional law.

The Constitution of Australia is an example of a constitution where the constitutional law derives mainly from a single written document, but other written documents are also considered parts of the constitution.

The Constitution of India is the longest codified constitution in the world. It is unique in that it incorporates codes from many other constitutions, such as those of Japan, Malaysia, and Anglosphere countries.

Uncodified constitutions are the product of an "evolution" of laws and conventions over centuries. By contrast to codified constitutions, in the Westminster tradition that originated in England, uncodified constitutions include written sources: e.g. constitutional statutes enacted by the Parliament (House of Commons Disqualification Act 1975, Northern Ireland Act 1998, Scotland Act 1998, Government of Wales Act 1998, European Communities Act 1972 and Human Rights Act 1998); and also unwritten sources: constitutional conventions, observation of precedents, royal prerogatives, custom and tradition, such as always holding the General Election on Thursdays; together these constitute the British constitutional law. In the days of the British Empire, the Judicial Committee of the Privy Council acted as the constitutional court for many of the British colonies such as Canada and Australia which had federal constitutions.

In states using uncodified constitutions, the difference between

constitutional law and statutory law (i.e. law applying to any area of governance) in legal terms is nil. Both can be altered or repealed by a simple majority in Parliament. In practice, democratic governments do not use this opportunity to abolish all civil rights, which in theory they could do, but the distinction between regular and constitutional law is still somewhat arbitrary, usually depending on the traditional devotion of popular opinion to historical principles embodied in important past legislation. For example, several Acts of Parliament such as the Bill of Rights, Human Rights Act and, prior to the creation of Parliament, Magna Carta are regarded as granting fundamental rights and principles which are treated as almost constitutional.

Vocabulary notes

rule of law – принцип господства права

coherent (adj) – согласованный, последовательный, ясный

ultra vires (лат)– вне компетенции, с превышением правомочий

rigid (adj) – жесткий, негибкий, непреклонный, строгий

to yield (v) – производить, давать

subsequently (aux) – впоследствии, потом, позже

consent (n) – согласие, разрешение

to lie with – входить в чьи-либо обязанности, лежать на чьей-либо ответственности

prerogative (n) – исключительное право, привилегия

to foist (v) – всунуть, всучить

to infringe (v) – нарушать, посягать

arbitrary (adj) – произвольный, дискреционный, деспотический

in legal terms is nil – с юридической точки зрения отсутствует

Before you read text 2B

Comment on the following quotations.

1. Law and justice are not always the same. (Gloria Steinem)
2. Where law ends, there tyranny begins. (William Pitt, the Elder)

Reading tasks

A. Understanding main points

Read text 2B and answer these questions.

1. How can written constitution be defined?
2. What type of constitution is the Constitution of Australia?
3. Why can't the term *unwritten constitution* be used as an accurate synonym for the term *uncodified constitution*?
4. What does formal constitution mean?
5. What type of constitution is the Constitution of the Russian Federation?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. The terms *written constitution* and *codified constitution* are often used interchangeably.
2. A written constitution may be not codified.
3. There is no written constitution in Great Britain.
4. The Constitution of Canada is codified in a single document.
5. The term *formal constitution* is an accurate synonym for *written constitution.*

Text 2B

WRITTEN CONSTITUTION VERSUS UNWRITTEN

The term written constitution is used to describe a constitution that is entirely written, which by definition includes every codified constitution. However, some constitutions are entirely written but, strictly speaking, not entirely codified. For example, in the Constitution of Australia, most of its fundamental political principles and regulations concerning the relationship between branches of government, and concerning the government and the individual are codified in a single document, the Constitution of the Commonwealth of Australia. However,

the presence of statutes with constitutional significance, namely the Statute of Westminster, as adopted by the Commonwealth in the Statute of Westminster Adoption Act 1942, and the Australia Act 1986 means that Australia's constitution is not contained in a single constitutional document. The Constitution of Canada, which evolved from the British North America Acts until severed from nominal British control by the Canada Act 1982 (analogous to the Australia Act 1986), is a similar example.

The term written constitution is often used interchangeably with codified constitution, and similarly unwritten constitution is used interchangeably with uncodified constitution. As shown above, this usage with respect to written and codified constitutions can be inaccurate. Strictly speaking, unwritten constitution is never an accurate synonym for uncodified constitution, because all modern democratic constitutions consist of some written sources, even if they have no different technical status than ordinary statutes. Another term used is formal (written) constitution, for example in the following context: "The United Kingdom has no formal constitution." This usage is correct, but it should be construed to mean that the United Kingdom does not have a codified constitution, not that the UK has no constitution of any kind, which would not be correct.

A constitution can be written but not codified. Codified would suggest written in one document. This means that a constitution that has a number of written sources is still written, but not codified.

Constitutions may provide that, for the purpose of clarity, they may be amended only by a law expressly amending or supplementing the Constitutional text itself (otherwise the relevant law would not enjoy the status of constitutional law). The German Federal Constitution does expressly, and the constitutional tradition of the German federal states do at least in an implied manner, provide for this.

Vocabulary notes

versus – 1. (prep) против 2. (aux) в сравнении с

strictly speaking – строго говоря

entirely (aux) – полностью, всецело, совершенно

regulation (n) – норма, правило, постановление, устав, регулирование, регламентирование

to evolve (v) – развиваться, эволюционировать

with respect to – что касается

to sever (v) – разъединять, отделять, разделять

accurate (adj) – точный, правильный

to construe (v) – толковать, истолковывать

to supplement (v) – добавлять, пополнять

to enjoy (v) – обладать, пользоваться, осуществлять

Vocabulary practice

Match these terms with their definitions.

1. law (n)	a) a rule or order issued by a government agency and often having the force of law;
2. regulation (n)	b) a change made to a law or agreement;
3. codify (v)	c) adherence to due process of law;
4. precedent (n)	d) condition or requirement in a legal document;
5. rule of law	e) a law enacted by the legislative branch of a government;
6. amendment (n)	f) a rule of conduct or action prescribed or formally recognized as binding or enforced by a controlling authority;
7. statute (n)	g) to put in the form of a code;
8. provision (n)	h) a legal case establishing a principle or rule that a court or other judicial body adopts when deciding subsequent cases with similar issues or facts.

Complete the following text with the words and phrases listed below.

equality and liberty; infringe on the rights; law; society; civil liberties; limitations on the power; exercise the privileges; social; citizens; state; equal protection; freedom of speech; justice; individual; religion

Civil Rights and Civil Liberties are political and (1) … concepts referring to guarantees of freedom, (2) …, and equality that a state may make to its (3) … . Although the terms have no precise meaning in law and are sometimes used interchangeably, distinctions may be made.

The concept of civil rights is used to imply that the (4) … has a positive role in ensuring all citizens (5) … … under law and equal opportunity to (6) … … of citizenship and otherwise to participate fully in national life, regardless of race, (7) …, sex, or other characteristics unrelated to the worth of the (8) … . The concept of (9) … … is used to refer to guarantees of (10) … …, press, or religion; due process of (11) …; and other (12) … … of the state to restrain or dictate the actions of individuals. The two concepts of (13) … … are overlapping and interacting; equality implies the ordering of liberty within (14) … so that the freedom of one person does not (15) … … of others.

Speaking practice

Speak on the topic “Evolution of the Constitution of the RF”.

UNIT 3

SEPARATION OF POWERS

Before you read text 3A

Comment on the following quotations.

1. As long as I have any choice, I will stay only in a country where political liberty, toleration, and equality of all citizens before the law are the rule. (Albert Einstein)
2. Law is not law, if it violates the principles of eternal justice.
(Lydia Maria Child)

Reading tasks

A. Understanding main points

Read text 3A and answer these questions.

1. Who introduced the term *separation of powers*?
2. What does *trias politica* mean?
3. Where was *trias politica* first developed?
4. What is the characteristic feature of separation of powers in parliamentary democracies?
5. What is Montesquieu's model of division of political power based on?
6. Why was Montesquieu's model criticized as misleading?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. Under *trias politica* the government is divided into branches which have separate and independent powers.
2. The government of the Roman Republic included the legislative, the executive and the judicial branches.
3. The Senate of the Roman Republic performed legislative function.
4. In the Roman Republic legislative assemblies consisted of citizens, participating in a direct-democracy legislative system.
5. The principle of responsible government means that the executive branch is drawn from the legislature.

Text 3A

TRIAS POLITICA

Separation of powers, a term ascribed to French Enlightenment political philosopher Baron de Montesquieu, is a model for the governance of democratic states. The model is also known as *trias politica*. The model was first developed in ancient Greece and came into widespread use by the Roman Republic as part of the

uncodified Constitution of the Roman Republic. Under this model, the state is divided into branches or estates, each with separate and independent powers and areas of responsibility.

The government of the Roman Republic divided power into three independent branches: the senate, the legislative branch, and the executive branch. The Senate made military and foreign policy, and directed domestic policy. It also issued orders to executive branch officials, which were usually obeyed. The Senate was not a legislative body and it did not pass laws. The legislative branch had two primary functions. First, it elected all executive officials. Election to such office usually meant automatic membership in the senate. Senate's terms of office were for life. The second major function of the legislative branch was to pass domestic laws. These legislative assemblies were not bodies of elected representatives. Rather, they were bodies of citizens, participating in a direct-democracy legislative system. The laws passed by these assemblies were called plebiscites, the modern equivalent of popular referendums. Members of the executive branch commanded the military, enforced the laws, and acted as high judges. A network of checks and balances existed between the three branches. This system of checks and balances was designed to prevent the accumulation of too much power into the hands of a lonely person.

Parliamentary democracies do not have distinct separation of powers. The executive, which often consists of a prime minister and cabinet ("government"), is drawn from the legislature (parliament). This is the principle of responsible government. However, although the legislative and executive branches are connected, in parliamentary systems there is usually an independent judiciary.

Montesquieu described division of political power among an executive, a legislature, and a judiciary. He based this model on the British constitutional system, in which he perceived a separation of powers among the monarch, Parliament, and the courts of law. Subsequent writers have noted that this was misleading, because Great Britain had a very closely connected legislature and executive, with further links to the judiciary (though combined with judicial

independence). But in Montesquieu's time, the political connection between Britain's Parliament and the monarch's Ministry was not as close as it would later become.

Montesquieu did specify that "the independence of the judiciary has to be real, and not apparent merely". "The judiciary was generally seen as the most important of powers, independent and unchecked", and also considered the least dangerous. Some politicians decry judicial action against them as a "criminalization" of their behavior, but such "criminalization" may be seen as a response to corruption, collusion, or abuse of power by these politicians.

Vocabulary notes

to ascribe (v) – приписывать

to issue an order – издать приказ

trias politica (лат.) – принцип разделения властей

term of office – срок полномочий

to decry (v) – порицать, преуменьшать значение

judicial action – акт судебной власти

collusion – тайное соглашение, сговор (в ущерб третьей стороне или в целях обмана суда)

abuse of power – злоупотребление властью/полномочиями, превышение власти

Vocabulary practice

Complete the following texts with the words and phrases listed below.

Parliament; department ministers; Prime Minister; powers; people; general election; legislature; monarch; power; government

In presidential and semi-presidential systems of government, (1) … … are accountable to the president, who has patronage (2) … to appoint and dismiss ministers. The president is accountable to the (3) … in an election.

In parliamentary systems, ministers are accountable to (4) …, but it is the (5) … … who appoints and dismisses them. In Westminster systems, this (6) …

derives from the (7) … or head of state in Westminster-style republics, such as India and the Republic of Ireland, a component of Parliament. There is the concept of a vote of no confidence in many countries with parliamentary systems, which means that if a majority of the (8) … vote for a no confidence motion, then the (9) … must resign, and a new one will be formed, or parliament will be dissolved and a (10) … … called.

Before you read text 3B

Comment on the following quotations.

1. Laws are not masters but servants, and he rules them who obeys them.
(Henry Ward Beecher)

2. Laws are like spiders' webs which, if anything small falls into them they ensnare it, but large things break through and escape. (Solon)

Reading tasks

A. Understanding main points

Read text 3B and answer these questions.

1. What feature is more inherent to presidential systems?
2. What systems are characterized by fusion of powers?
3. What is the difference between separation of powers and fusion of powers?
4. What country is the most notable example of a mixed system of government?
5. What are some examples of nations with Presidential form of government?
6. What countries have Parliamentary government?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. There are democratic systems with an absolute separation of powers.
2. In separation of powers, the national legislature does not select the person or persons of the executive; instead, the executive is chosen by some other means.

3. Great Britain is an example of a mixed system of government.

4. In fusion of powers, one government is supreme, and the other estates are subservient to it.

5. In separation of powers, each estate is entirely independent of the others.

Text 3B

SEPARATION OF POWERS VERSUS FUSION OF POWERS

In democratic systems of governance, a continuum exists between "Presidential government" and "Parliamentary government". "Separation of powers" is a feature more inherent to presidential systems, whereas "fusion of powers" is characteristic of parliamentary ones. "Mixed systems" fall somewhere in between, usually near the midpoint; the most notable example of a mixed system is France's (current) Fifth Republic.

No democratic system exists with an absolute separation of powers or an absolute lack of separation of powers. Nonetheless, some systems are clearly founded on the principle of separation of powers, while others are clearly based on a fusion of powers.

In fusion of powers, one government (invariably the elected legislature) is supreme, and the other estates are subservient to it. In separation of powers, each estate is largely, although not necessarily entirely independent of the others. Independent in this context means either that selection of each estate happens independently of the other estates or at least that each estate is not beholden to any of the others for its continued existence.

Accordingly, in a fusion of powers system such as that of the United Kingdom, first described as such by Walter Bagehot, the people elect the legislature, which in turn "creates" the executive. As Professor Cheryl Saunders writes, "...the intermixture of institutions (in the UK) is such that it is almost impossible to describe it as a separation of powers." In a separation of powers, the

national legislature does not select the person or persons of the executive; instead, the executive is chosen by other means, e.g. direct popular election, electoral college selection, etc. In a parliamentary system, when the term of the legislature ends, so too may the tenure of the executive selected by that legislature. Although in a presidential system the executive's term may or may not coincide with the legislature's, their selection is technically independent of the legislature. However, when the executive's party controls the legislature, the executive often reaps the benefits of what is, in effect, a "fusion of powers". Such situations may thwart the constitutional goal or normal popular perception that the legislature is the more democratic branch or the one "closer to the people", reducing it to a virtual "consultative assembly", politically or procedurally unable – or unwilling – to hold the executive accountable in the event of blatant, even boldly admitted, "high crimes and misdemeanors."

Vocabulary notes

inherent (adj) – присущий, неотъемлемый

midpoint (n) – ключевой момент, кульминация

current (adj) – текущий, современный

to thwart (v) – мешать, тормозить, разрушать

popular election – народное голосование

electoral college – коллегия выборщиков

tenure (n) – пребывание (в должности), срок пребывания

to coincide (v) – совпадать

to reap the benefits of something – пожинать плоды чего-либо

subservient (adj) – подчиненный, зависимый

blatant (adj) – ужасный, вопиющий, очевидный, явный

misdemeanor (n) – мисдиминор (категория наименее опасных преступлений, граничащих с административными правонарушениями)

Vocabulary practice

Match these terms with their definitions.

1. Parliament (n)	a) the use of something in a bad, dishonest, or harmful way;
2. judiciary (n)	b) to choose someone by voting;
3. electoral college	c) the part of government that is responsible for the enforcement of laws;
4. legislature (n)	d) an official elected group of people in some countries who meet to make laws of the country and discuss national issues;
5. abuse (n)	e) agent; someone who is authorized to act in place of and on behalf of someone else, by that other person for some special purpose;
6. elect (v)	f) the part of government that makes and changes laws;
7. representative (n)	g) the part of government that consists of all judges and courts in a country;
8. executive (n)	h) a set of electors who are selected to elect a candidate to a particular office.

Complete the following texts with the words and phrases listed below.

Executive's; freedoms of citizens; check and balance; Judiciary's; corruption; Parliament's; manipulate government; accountability; concentration of power; under the law

In order to promote (1) … of government, hinder (2) … and protect the fundamental (3) … … from the will of the government, it is essential to keep separate the (4) … power to make laws, from the (5) … power to administer laws, and from the (6) … power to hear and determine disputes (7) … … . This separation is designed to protect the people from a (8) … …, and the ability of

individuals or groups to (9) … … for personal gain and to ignore the will of the people.

Each branch of government must be, and be seen to be, free to act as a (10) … … on the other without fear or interference.

Speaking practice

Speak about the main principles of the Constitution of the RF.

UNIT 4

SYSTEM OF CHECKS AND BALANCES

Before you read text 4A

Comment on the following quotations.

1. Our government... teaches the whole people by its example. If the government becomes the lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.

(Louis Dembitz Brandeis)

2. The best way to get a bad law repealed is to enforce it strictly.

(Abraham Lincoln)

Reading tasks

A. Understanding main points

Read text 4A and answer these questions.

1. What do checks mean in the system of checks and balances?
2. What do balances mean in the system of checks and balances?
3. What is one of the key checks on presidential authority in the USA?
4. In what case can the power of different elements of the political system to block each other lead to gridlock?
5. What is the main designation of the system of checks and balances?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. There is relatively little separation of government powers in the USA.
2. One of the strongest checks on government authority is freedom of speech.
3. By the end of the last century political systems of most of economically developed countries had included the elements of checks and balances.
4. The lack of balance of power among different branches of a government can lead to tyranny.
5. In the countries with parliamentary system the legislature is given the power to both write and interpret the laws.

Text 4A

CHECKS AND BALANCES

By the late 20th century nearly all economically developed countries had incorporated elements of checks and balances into their political systems. Even in countries such as Britain – where there is relatively little separation of government powers – government institutions still have checks on each other. The British Parliament, for example, selects the country's Prime Minister, but the Prime Minister can be removed through a majority vote by Parliament of no confidence. This means that even though the chief executive is a member of the legislature, he or she does not have unlimited power.

Many countries impose limits on one of the strongest checks on government authority: freedom of speech. Even some democratic countries have legislatures that can effectively impose bans on books, films, or other materials that they deem obscene or treasonous. In addition, most parliamentary systems permit the legislature to act as a court of appeals for important cases, giving the lawmakers the power to both write and interpret the laws.

When a new state – the USA – was born, the Founders of the state thought

that if there was no balance of power among different branches of a government, it would lead to tyranny. That's why James Madison (1751-1836) favoured the constitution that limited government by means of separation of powers and a system of checks and balances, where checks – limitation of the duties of each branch, and balances – separate powers to each branch.

Where checks and balances are in place they are not always efficient. The power of different elements of the political system to block each other can lead to gridlock if no political interest has enough power to prevail over the others. In 1997 and early 1998, for example, the Senate refused to take action on many of President Bill Clinton's appointments of new federal court judges. Although the Senate's power to approve or reject federal court nominees is one of the key checks on presidential authority, the dispute between Clinton and the Senate meant that there were not enough federal judges to handle the court's workload. But the system of checks and balances was not designed for efficiency or speed, but rather to prevent misrule and tyranny.

Vocabulary notes

be a law unto oneself – поступать как заблагорассудится

the chief executive – глава исполнительной власти

to impose ban (on) – налагать запрет

obscene (adj) – непристойный, неприличный

treasonous (adj) – изменнический

by means of – при помощи

to prevail over – преобладать, господствовать

separation of powers – разделение полномочий

to lead to gridlock – заводить в тупик

to prevent misrule – не допускать беспорядок, препятствовать плохому правлению/неправильному руководству

Before you read text 4B

Comment on the following quotations.

1. Laws: We know what they are, and what they are worth! They are spider webs for the rich and mighty, steel chains for the poor and weak, fishing nets in the hands of the government. (Pierre Joseph Proudhon)
2. The more corrupt the republic, the more numerous the laws. (Tacitus)

Reading tasks

A. Understanding main points

Read text 4B and answer these questions.

1. What is a basic feature of the US government?
2. What establishes the first check?
3. How can the US Congress check the President's powers to veto a bill and to appoint major federal officials?
4. What check comes from the civil liberties protected by the US Constitution?
5. What is the fourth check concerned with?
6. What check on government power is widely used by American citizens though it is informal?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. Under the system of checks and balances the Senate appoints the judges, subject to the president's approval.
2. A second check originates from the division of power within the executive branch.
3. Though federal judges have lifetime appointments the Congress can always remove them from office.
4. A third check regulates mutual relations between the Congress and the states.
5. Every part of the United States government has checks and balances.

6. Why are the various methods of electing political leaders important in the system of checks and balances?

Text 4B

CHECKS AND BALANCES IN THE USA

The system of checks and balances is a basic feature of the United States government. The mechanism of checks can be seen through five basic institutional features of the system.

The first check comes from the fact that different branches of the government have overlapping authority, so each branch can act as a limit on the other. For example, the president can veto an act of Congress. A two-thirds majority in Congress can then override the president's veto. The president appoints major federal officials, but only if the Senate by majority vote agrees. The president administers the affairs of the federal government, but Congress controls the federal budget. Congress enacts laws, but the courts interpret their meaning and may even strike down a particular law if it violates the Constitution. However, Congress may propose amendments to the Constitution to overturn a court's rulings; these amendments must then be ratified by the states. In addition, court decisions can be overruled by higher courts and, later, by judges who might choose to reconsider the issues. Furthermore, the president appoints the judges, subject to the Senate's approval. However, federal judges have lifetime appointments, so the next president and Congress cannot simply remove them from office. But if the judges (or certain other officials, including the president) commit crimes, Congress may impeach them and then remove them from office.

A second check comes from the division of power within the legislative branch. Each house of Congress provides a check against the other, because both must agree on the exact wording in a bill in order to pass it into law. This check forces legislators to consider issues and constituencies that do not affect them directly.

Third, Congress can regulate many local and state activities, especially when there are conflicts between one state and another. But Congress has limited powers and is made up of representatives elected from the states, so the states in turn have a check on national affairs.

The fourth check is on the power of lawmakers. They are accountable to the people through elections; their power is not based on a birthright or social status, as it is in monarchal or aristocratic political systems. In the United States system, if lawmakers take actions that are unpopular, they can be removed from office in the next election. Moreover, lawmakers are elected in different ways. A member of the House of Representatives is elected from a single district within a state, while a member of the Senate is elected by all the voters in a state. The president is elected by all the nation's voters, and this national election requires a winning candidate to address diverse constituencies. The varied methods of electing political leaders bring assorted political perspectives and interests into the government, and these can be a check on each other.

The fifth check on the government emerges from the civil liberties protected by the Constitution, including freedom of speech, freedom of the press, and the freedoms of association and assembly. These rights ensure that if the government takes improper or unpopular actions, newspapers and other media can bring the actions to public attention. Citizens can speak out against the government and try to effect change. This check on government power is informal but spread throughout the population.

Not all parts of the United States government have checks and balances. The Federal Reserve System, for example, has few institutional limits on its authority to set monetary policy.

Vocabulary notes

to overlap (v) – перекрывать, заходить один за другой

subject to – при условии

to override the veto – преодолеть, отвергнуть вето

to strike down (v) – аннулировать, признавать незаконным

overturn a court's rulings – отменять постановление/решение суда

to overrule (v) – отменять, аннулировать

to have lifetime appointment – занимать пожизненную должность

to remove from office – смещать с/ отстранять от должности,

constituency (n) – избиратели, избирательный округ

in turn – в свою очередь

to be accountable to somebody – быть подотчетным кому-либо

to emerge (v) – появляться, возникать

Vocabulary practice

Match these terms with their definitions.

1. checks and balances	a) to choose someone to have a particular position;
2. veto (n)	b) to formally accuse a public official of a serious crime relating to their job;
3. appoint (v)	c) agreement between all the people involved;
4. ruling (n)	d) a division of a country that elects a representative to a parliament;
5. impeach (v)	e) an official refusal to approve or allow something;
6. override (v)	f) a system of government with limitation of the duties and separation of powers of each branch;
7. consensus (n)	g) an official decision made by a court or by someone in a position of authority;
8. constituency (n)	h) to use official authority to ignore or change a decision that someone else made.

Complete the following text with the words and phrases listed below.

Congress; check; override a veto; separate; house; branches; balanced; majority party; federal judges; misusing; consensus; courts; strike down; President; officials; governmental policies; approved; checks and balances; government; Executive Branch

The Constitution provides for three main (1) … of government which are (2) … and distinct from one another. The powers given to each are carefully (3) … by the powers of the other two. Each branch serves as a (4) … on the others. This is to keep any branch from gaining too much power or from (5) … its powers.

(6) … has the power to make laws, but the (7) … may veto any act of the legislature, which, in its turn, can (8) … … by a two-thirds vote in each (9) …. The President can appoint important (10) … of his administration, but they must be (11) … by the Senate. The President also has the power to name all (12) … …; they, too, must be approved by the Senate. The (13) … have the power to determine the constitutionality of all acts of Congress and of presidential actions, and to (14) … those they find unconstitutional.

The system of (15) … … makes compromise and (16) … necessary. Compromise is also a vital aspect of other levels of (17) … in the United States. This system protects against extremes. It means, for example, that new presidents cannot radically change (18) … … just as they wish. In the US, therefore, when people think of "the government", they usually mean the entire system, that is, the (19) … … and the President, Congress, and the courts. In fact and in practice, therefore, the President (i.e. "the Administration") is not as powerful as many people outside the US seem to think he is. In comparison with other leaders in systems where the (20) … … forms "the government", he is much less so.

Speaking practice

Compare the systems of checks and balances in the USA and in the Russian Federation. Which of them, in your opinion, is more effective? Why? Give an example to prove your opinion.

PART 4

INTERNATIONAL LAW

UNIT 1

HISTORY OF INTERNATIONAL LAW

Before you read text 1A

Comment on the following quotations.

1. The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics. (Oliver Wendell Holmes)

2. You cannot make men good by law: and without good men you cannot have a good society. (C. S. Lewis)

Reading tasks

A. Understanding main points

Read text 1A and answer these questions.

1. What is the oldest international treaty known nowadays?

2. What subjects did the rules of conduct between independent states deal with early in human history?

3. What contribution to the evolution of international law did the Romans make?

4. What did *jus gentium* govern in the days of Roman Empire?

5. What subjects did the treaty system of ancient Greek city-states regulate?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. The empires of the ancient Middle East during the 2nd millennium BC possessed the fundamentals of international law.

2. In the Middle Ages the Greeks, Romans, and Jews developed the principles of international law.

3. The ancient Greeks were the first people to originate the idea of a just war.
4. In old times religious books were the sources of law, including international law.

Text 1A

ANCIENT HISTORY

The need for some principles and rules of conduct between independent states arises whenever such states enter into mutual relations. Rules governing the treatment of foreign traders, travelers, and ambassadors, as well as the conclusion and observance of treaties, developed early in human history. The oldest known treaty, preserved in an inscription on a stone monument, is a peace treaty between two Sumerian city-states, dating from about 3100 BC. A considerable number of treaties concluded by the empires of the ancient Middle East during the 2nd millennium BC show rudimentary notions of international law. In later antiquity the Jews, Greeks, and Romans developed tenets of international law. Jewish law as set forth in the Book of Deuteronomy contains prescriptions for the mitigation of warfare, notably prohibitions against the killing of women and children. The Greek city-states created an elaborate treaty system governing a multitude of aspects of the relations among themselves. The conduct of the Olympic Games and the protection of religious sanctuaries, such as the Temple of Delphi, were among the subjects of some of these inter-Greek treaties.

Even more than other ancient people, the Romans made significant contributions to the evolution of international law. They developed the idea of a *jus gentium,* a body of laws designed to govern the treatment of aliens subject to Roman rule and the relations between Roman citizens and aliens. They were the first people to recognize in principle the duty of a nation to refrain from engaging in warfare without a just cause and to originate the idea of a just war.

Vocabulary notes

corollary (n) – вывод, заключение, естественное следствие

to enter into mutual relations – вступать во взаимоотношения

the Book of Deuteronomy – Второзаконие

warfare (n) – война, приёмы ведения войны

subject (n) – тема, вопрос, субъект, подданный

jus gentium (лат.) – международное право

tenet (n) – принцип, доктрина, догмат

just cause – обоснованное основание, причина

prohibitions (n) – запрещение, запрет

aliens subject – подданный другого государства

to refrain from (v) – воздерживаться от (чего-либо)

to originate (v) – давать начало, порождать

Before you read text 1B

Comment on the following quotations.

1. The law is an adroit mixture of customs that are beneficial to society, and could be followed even if no law existed, and others that are of advantage to a ruling minority, but harmful to the masses of men, and can be enforced on them only by terror. (Peter Kropotkin)
2. The good of the people is the chief law. (Cicero)

Reading tasks

A. Understanding main points

Read text 1B and answer these questions.

1. Why is law necessary in a civil society?
2. What principal subjects does international law consist of?
3. What does conflict of laws deal with?
4. What does public international law cover?

5. What is called international comity?

6. How do international law and international morality interact?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. The importance of law has been acknowledged only by contemporary mankind.

2. Law is always mandatory as it punishes those who violate its rules.

3. The ideas and preoccupations of the society affect its law.

4. Municipal law operates outside and between states, international organizations and, in certain cases, individuals.

5. Public international law also includes special rules applied only to a group of states linked geographically or ideologically.

6. International law can't be separated from its values.

Text 1B

NATURE AND DEVELOPMENT OF INTERNATIONAL LAW

In the long march of mankind from the cave to the computer a central role has always been played by the idea of law – the idea that order is necessary and chaos inimical to a just and stable existence. Every society, whether it be large or small, powerful or weak, has created for itself a framework of principles within which to develop. What can be done, what cannot be done, permissible acts, forbidden acts, have all been spelt out within the consciousness of that community. Progress, with its inexplicable leaps and bounds, has always been based upon the group as men and women combine to pursue commonly accepted goals, whether these be hunting animals, growing food or simply making money.

Law is that element which binds the members of the community together in their adherence to recognized values and standards. It is both

permissive in allowing individuals to establish their own legal relations with rights and duties, as in the creation of contracts, and coercive, as it punishes those who infringe its regulations. Law consists of a series of rules regulating behaviour, and reflecting, to some extent, the ideas and preoccupations of the society within which it functions.

And so it is with what is termed international law, with the important difference that the principal subjects of international law are nation states, not individual citizens. There are many contrasts between the law within a country (municipal law) and the law that operates outside and between states, international organizations and, in certain cases, individuals.

International law itself is divided into conflict of laws (or private international law as it is sometimes called) and public international law (usually just termed international law). The former deals with those cases, within particular legal systems, in which foreign elements obtrude, raising questions as to the application of foreign law or the role of foreign courts. For example, if two Englishmen make a contract in France to sell goods situated in Paris, an English court would apply French law as regards the validity of that contract. By contrast, public international law is not simply an adjunct of a legal order, but a separate system.

Public international law covers relations between states in all their myriad forms, from war to satellites, and regulates the operations of the many international institutions. It may be universal or general, in which case the stipulated rules bind all the states, whereby a group of states linked geographically or ideologically may recognize special rules applying only to them, for example, the practice of diplomatic asylum that has developed to its greatest extent in Latin America. The rules of international law must be distinguished from what is called international comity, or practices such as saluting the flags of foreign warships at sea, which are implemented solely through courtesy and are not regarded as legally binding. Similarly, the mistake of confusing international law with international morality must be avoided. While they may meet at certain points, the former discipline is a

legal one both as regards its content and its form, while the concept of international morality is a branch of ethics. This does not mean, however, that international law can be divorced from its values.

Vocabulary notes

private international law – международное частное право

public international law – международное публичное право

adherence (n) – приверженность, верность, строгое соблюдение

municipal law – внутригосударственное право

international comity – международная вежливость

consciousness (n) – сознание, осознание

to pursue (v) – преследовать, продолжать

coercive (adj) – принудительный

conflict of laws – коллизионное право

to infringe regulations – нарушать правила

to implement (v) – выполнять, осуществлять, вводить в действие

legally binding – юридически обязательный, юридически обязанный

legal order – правопорядок

divorce (v) – отделять, разъединять

Vocabulary practice

Match these terms with their definitions.

1. international law	a) the laws of different countries or other jurisdictions on the subject-matter to be decided, are in opposition to each other; or that certain laws of the same country are contradictory;
2. municipal law	b) possessed in common; reciprocal;
3. conflict of laws	c) a diplomatic official heading his or her country's permanent mission to certain

	international organizations, such as the UN;
4. mutual (adj)	d) to give practical effect to and ensure of actual fulfillment by concrete measures;
5. duty (n)	e) to state that something is not allowed, according to a rule, law or custom;
6. citizen (n)	f) to encroach upon in a way that violates law or the rights of another;
7. ambassador (n)	g) regulation of the relations between governments and also between private citizens from different countries;
8. infringe (v)	h) a mixture of ordinances, regulations, bylaws and decisions that govern a municipality;
9. implement (v)	i) a native or naturalized person who owes allegiance to a government and is entitled to protection from it;
10. forbid	j) an obligation assumed (as by contract) or imposed by law to conduct oneself in conformance with a certain standard or to act in a particular way.

Complete the following text with the words and phrases listed below.

United Nations; Monetary Fund; agreements; public; modern corpus; UNESCO; Universal Declaration; Geneva Conventions; League of Nations; Charter

International law has existed since the Middle Ages, but much of its (1) … … began developing from the mid-19th century. In the 20th century, the two World Wars, the formation of the (2) … … and other international organizations such as the International Labor Organization (ILO) all contributed to accelerate this process and established much of the foundations of modern (3) … international law. After the failure of the Treaty of Versailles and World War II,

the League of Nations was replaced by the (4) … …, founded under the UN (5) …. The UN has also been the locus for the development of new advisory non-binding standards, such as the (6) … … of Human Rights. Other international norms and laws have been established through international (7) …, including the (8) … … on the conduct of war or armed conflict, as well as by agreements implemented by other international organizations such as the ILO, the World Health Organization, the World Intellectual Property Organization, the International Telecommunication Union, (9) …, the World Trade Organization, and the International (10) … …. The development and consolidation of such conventions and agreements has proven to be of great importance in the realm of international relations.

Speaking practice

1. Speak about an outstanding international lawyer from our country who promoted Russia's welfare and international understanding.

2. Speak about Russia's contribution to the development of international law.

UNIT 2

DEVELOPMENT OF MODERN SYSTEM OF INTERNATIONAL LAW

Before you read text 2A

Comment on the following quotations.

1. A state is better governed which has few laws, and those laws strictly observed. (Rene Descartes)

2. The laws are silent in the midst of arms. (Cicero)

Reading tasks

A. Understanding main points

Read text 2A and answer these questions.

1. What caused the development of modern international law?

2. Who is called the father of modern international law? Why?

3. What was Grotius's system of law based on?

4. What are the three main sources of modern international law?

5. What is the contribution of Dutch jurist Cornelis van Bynkershoek and the Swiss diplomat Emmerich de Vattel into the development of the basic rules of international law?

6. What is the present system of international law based on?

7. What are the important elements of the law-making process of the international community?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. Grotius's influence on the conduct of international affairs and the settlement of wars was great.

2. According to the sovereign state concept each nation has the right to participate in the negotiation of, or to sign or ratify, any international treaty.

3. There is much difference between customary international law and international law.

4. Treaties and conventions have always been restricted in their effects to those countries that ratified them.

5. Member states of the UN are free to ratify any convention adopted by this agency.

Text 2A

SOURCES OF MODERN SYSTEM OF INTERNATIONAL LAW (I)

Modern international law emerged as the result of the acceptance of the idea of the sovereign state, and was stimulated by the interest in Roman law in the 16th century. Building largely on the work of previous legal writers, especially Spanish precursors, the Dutch jurist Hugo Grotius, sometimes called the father of modern international law, published his celebrated treatise *De Jure Belli ac Pacis* (On the Laws of War and Peace) in 1625 prior to that time he had published his pioneering tract on freedom of the sea, *Mare Liberum*, 1609. Grotius based his system on the law of nature and propounded the view that the already existing customs governing the relation between nations had the force of law and were binding unless contrary to natural justice. His influence on the conduct of international affairs and the settlement of wars was great. His ideas became the cornerstone of the international system as established by the Peace Treaties of Westphalia (1648), which ended the Thirty Years' War.

Other scholars and statesmen further developed the basic rules of international law, among them the Dutch jurist Cornelis van Bynkershoek and the Swiss diplomat Emmerich de Vattel whose *Le droit des gens* (1758; Law of Nations) exercised great influence on the Framers of the U.S. Constitution. By the end of the second half of the 19th century the literature on the subject had reached vast proportions. The Institute of International Law, a private organization for the study of international law composed of outstanding scholars from various countries, was established in 1873. One of its founders was the American David D. Field, who in the same year had authored *Outlines of an International Code.*

International law stems from three main sources: treaties and international conventions, customs and customary usage, and the generally accepted principles

of law and equity. Judicial decisions rendered by international tribunals and domestic courts are important elements of the law-making process of the international community. United Nations resolutions now may also have a great impact on the growth of the so-called customary international law that is synonymous with general principles of international law.

The present system of international law is based on the sovereign state concept. It is within the discretion of each state, therefore, to participate in the negotiation of, or to sign or ratify, any international treaty. Likewise, each member state of an international agency such as the UN is free to ratify any convention adopted by that agency.

Treaties and conventions were, at first, restricted in their effects to those countries that ratified them. They are particular, not general, international law; yet regulations and procedures contained in treaties and conventions have often developed into general customary usage, that is, have come to be considered binding even on those states that did not sign and ratify them. Customs and customary usages otherwise become part of international law because of continued acceptance by the great majority of nations, even if they are not embodied in a written treaty instrument. “Generally accepted principles of law and justice” fall into the same category and are, in fact, often difficult to distinguish from customs.

Vocabulary notes

customary international law – международное обычное право

natural justice – естественная справедливость, правосудие на основе принципов естественного права

precursor (n) – предтеча, предшественник, предвестник

cornerstone (n) – краеугольный камень

the Framers (n) – творцы конституции США

to propound (v) – выступить с предложением

discretion (n) – усмотрение, свобода действий, дискреционное право

to have a great impact (on) – оказывать большое влияние (на)

to embody (v) – воплощать, включать в себя

Before you read text 2B

Comment on the following quotations.

1. Ignorance of the law excuses no man; not that all men know the law, but because it is an excuse every man will plead, and no man can tell how to confute him. (John Selden)
2. Although the legal and ethical definitions of right are the antithesis of each other, most writers use them as synonyms. They confuse power with goodness, and mistake law for justice. (Charles T. Sprading)

Reading tasks

A. Understanding main points

Read text 2B and answer these questions.

1. What measures taken at the beginning of the 19th century contributed to the body of international law?
2. What historical document initiated the practice of providing for the subsequent accession by nations other than the original signatories?
3. When was the Permanent Court of International Justice established?
4. When and why was the League of Nations created?
5. What was the reason for creating a new international organization after the termination of World War II?
6. How do modern nations secure inland observance of international law?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. The Congress of Vienna contributed greatly into the formation of modern international system and the law.

2. The Conference of Geneva, held in 1864, adopted the Declaration of Maritime Law that modernized the rights of neutrals during maritime war.

3. The peace conferences held in 1899 and 1907 in The Hague were devoted to mitigation of the rigors of war.

4. Seventy-three countries, such as the USSR, the USA, Germany and Japan were the members of the League of Nations.

5. The United Kingdom has incorporated into their municipal law the provision that international law shall be made part of the law of the land.

Text 2B

SOURCES OF MODERN SYSTEM OF INTERNATIONAL LAW (II)

Since the beginning of the 19th century, international conferences have played an important part in the development of the international system and the law. Noteworthy in that respect was the Congress of Vienna which, through its Final Act of 1815, reorganized Europe after the defeat of Napoleon and also contributed to the body of international law. For example, it established rules for diplomatic procedure and the treatment of diplomatic envoys. On the urging of Britain, it included a general condemnation of the slave trade. Another important step in the development of international law was the Conference of Paris (1856), which was convened to terminate the Crimean War but at the same time adopted the Declaration of Maritime Law that abolished privateering and letters of marque, modernized the rights of neutrals during maritime war, and required blockades to be effective. The Declaration of Paris also initiated the practice of providing for the subsequent accession by nations other than the original

signatories. In 1864 a conference convened in Geneva at the invitation of the Swiss Federal Council approved a convention for the protection of wounded soldiers in a land war; many nations subsequently acceded to this convention.

The avoidance or mitigation of the rigors of war continued to be the subject of other multilateral treaties. The peace conferences held in 1899 and 1907 in The Hague, the Netherlands, resulted in a number of conventions of that type. The 1899 conference adopted a Convention for the Pacific Settlement of International Disputes, which created the Permanent Court of Arbitration. Although it was not a veritable court with a fixed bench of judges, it served as an important instrument of arbitration.

At the end of World War I the League of Nations was established by the covenant signed in 1919 as part of the Treaty of Versailles. Pursuant to provisions in this covenant, the Permanent Court of International Justice was established in 1921. The League of Nations was created as a permanent organization of independent states for the purpose of maintaining peace and preventing war. During its existence 63 countries were members of the League at one time or another. The USSR joined in 1934, but Germany and Japan withdrew in 1933. The U.S. never became a member of the organization, which was powerless to forestall World War II. Equally unsuccessful in preventing hostilities was the Pact of Paris for the Renunciation of War (1928) – the so-called Kellogg-Briand Pact – although it was ratified by more than 60 nations, including Germany and Japan. After the termination of World War II in 1945 the UN Charter created a new organization with an elaborate machinery for solving disputes among nations and for the further development of international law.

Normally, every nation is expected to obey international law. Some nations, for example the United Kingdom, have incorporated into their municipal law the provision that international law shall be made part of the law of the land. The U.S. Constitution empowers Congress “to define and punish ... Offences against the Law of Nations.”(Article I, Section 8). In cases involving international law, American courts tend to interpret American law in conformity

with international law; such an attitude has consistently been urged by the U.S. Supreme Court.

If each nation were free to declare unilaterally that it is no longer bound by international law, the result would be anarchy. A test was provided in the conduct of Germany under Nazi rule. The Nierenberg tribunals held that the German government regulations that ordered, for example, the killing of prisoners of war in contravention of the generally valid rules of warfare were null and void and that the persons responsible for issuing and executing such orders were criminally responsible for violations of international law.

Vocabulary notes

antithesis (n) – контраст, полная противоположность

to confuse (v) – смешивать, спутывать

envoy (n) – посланник, эмиссар, доверенное лицо

in that respect – в этом отношении

maritime law – морское право

contribute (v) – содействовать, способствовать

forestall (v) – предупреждать, предвосхищать, опережать

privateering (n) – каперство

letter of marque – каперское свидетельство

elaborate (adj) – тщательно разработанный, усовершенствованный

in conformity with – в соответствии с

neutral (n) – нейтральное государство, гражданин нейтрального государства

contravention (n) – нарушение, противоречие

valid (adj) – действительный, имеющий силу

null and void – ничтожный и не имеющий юридической силы

Vocabulary practice

Match these terms with their definitions.

1. justice (n)	a) to approve and give formal sanction to; confirm;
2. tribunal (n)	b) having legal force; effective or binding;
3. sovereign (adj)	c) the upholding of what is just, especially fair treatment and due reward in accordance with honor, standards, or law;
4. valid (adj)	d) a person or body of persons whose task is to hear and submit a decision on cases at law;
5. void (adj)	e) a committee or board appointed to adjudicate in a particular matter; a seat or court of justice;
6. maritime law	f) having no legal force or validity; null;
7. equity (n)	g) a formal sealed agreement or contract;
8. covenant (n)	h) self-governing, independent;
9. court (n)	i) law that relates to commerce and navigation on the high seas and other navigable waters and that is administered by the admiralty courts;
10. ratify (v)	j) a system for obtaining a fair result when existing laws do not provide a solution.

Complete the following text with the words and phrases listed below.

Geneva conventions; agreements; Public; states; values; legal systems; conflict of laws; private; United Nations; maritime law; conflict; international community; supranational; legal jurisdiction; regional

International law is the term commonly used for referring to the system of implicit and explicit (1) … that bind together nation-states in adherence to recognized (2) … and standards. It differs from other (3) … … in that it primarily concerns (4) … rather than (5) … citizens. However, the term "international law"

can refer to three distinct legal disciplines: (6) … international law, which involves for instance the (7) … … and other international organizations, (8) … …, international criminal law and the (9) … … .

Private international law, or (10) … …, which addresses the questions of (a) in which (11) … … may a case be heard; and (b) the law concerning which jurisdiction(s) apply to the issues in the case.

Supranational law which concerns at present (12) … agreements where the special distinguishing quality is that laws of nation states are held inapplicable when they (13) … with a (14) … legal system. The two traditional branches of the field are: *jus gentium* – law of nations and *jus inter gentes* – agreements among nations.

Sources of international law are the materials and processes out of which the rules and principles regulating the (15) … … developed. They have been influenced by a range of political and legal theories.

Speaking practice

1. Speak about recent tendencies in the development of modern international law.

2. Discuss the prospects of international law in 10-15 years.

UNIT 3
IMPACT OF THE UNITED NATIONS ON INTERNATIONAL LAW

Before you read text 3A

Comment on the following quotations.

1. Let every man remember that to violate the law is to trample on the blood of his father, and to tear that charter of his own and his children's liberty.

(Abraham Lincoln)

2. The law will never make men free; it is men who have got to make the law free. (Henry David Thoreau)

Reading tasks

A. Understanding main points

Read text 3A and answer these questions.

1. Who does the General Assembly of the United Nations consist of?
2. What is the English philosopher John Austin’s theory of law based on?
3. Why was international law relegated to the category of 'positive morality'?
4. Why was the idea of relegating international law to the category of 'positive morality' criticized?
5. What problem is at the heart of all discussions about the nature of international law?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. The resolutions of the General Assembly of the United Nations are legally binding.
2. International law includes legislature, judiciary and executive.
3. The Security Counci1 of the United Nations performs the functions of the governing entity.
4. The four permanent members of the UN Security Counci1 are the UK, the USA, the Russian Federation, and China.
5. The International Court of Justice can only decide cases when both sides agree and it cannot ensure that its decisions are complied with.

Text 3A

LAW AND POLITICS IN THE WORLD COMMUNITY

It is the legal quality of international law that is the first question to be posed. Each side to an international dispute will doubtless claim legal justification for its actions and within the international system there is no independent institution able to determine the issue and give a final decision.

Virtually everybody who starts reading about international law does so having learned or absorbed something about the principal characteristics of ordinary or domestic law. Such identifying marks would include the existence of a recognized body to legislate or create laws, a hierarchy of courts with compulsory jurisdiction to settle disputes over such laws and an accepted system of enforcing those laws. Without a legislature, judiciary and executive, it would seem that one cannot talk about a legal order. And international law does not fit this model. International law has no legislature. The General Assembly of the United Nations comprising delegates from all the member states exists, but its resolutions are not legally binding save for certain of the organs of the United Nations for certain purposes. There is no system of courts. The International Court of Justice does exist at The Hague but it can only decide cases when both sides agree and it cannot ensure that its decisions are complied with. Above all there is no executive or governing entity. The Security Counci1 of the United Nations, which was intended to have such a role in a sense, has at times been effectively constrained by the veto power of the five permanent members: the USA, the Russian Federation, China, France, and the United Kingdom. Thus, if there is no identifiable institution either to establish rules, or to clarify them or see that those who break them are punished, how can what is called international law be law?

It will, of course, be realized that the basis for this line of argument is the comparison of domestic law with international law, and the assumption of an analogy between the national system and the international order. And this is at the heart of all discussions about the nature of international law.

At the turn of the nineteenth century, the English philosopher John Austin elaborated a theory of law based upon the notion of a sovereign issuing a command backed by a sanction or punishment. Since international law did not fit within that definition it was relegated to the category of 'positive morality'. This concept has been criticized for oversimplifying and even confusing the true nature of law within a society and for overemphasizing the role of the sanction within the system by linking it to every rule. This is not the place for a comprehensive summary of Austin's theory but the idea of coercion as an integral part of any legal order is a vital one that needs looking at in the context of international law.

Vocabulary notes

domestic law – внутреннее право, внутригосударственное право

to issue a command – издать приказ, распоряжение, отдать приказ

executive entity – орган исполнительной власти

to comply with (v) – подчиняться, выполнять

to enforce a law – применить правовую норму, закон

be constrained by the veto power – ограничиваться правом вето

to oversimplify (v) – излишне упрощать, понимать слишком упрощенно

to relegate (v) – отсылать, относить, классифицировать

to overemphasize (v) – придавать слишком много значения

comprehensive (adj) – объемлющий, исчерпывающий, обстоятельный, всесторонний

Before you read text 3B

Comment on the following quotations.

1. Law is nothing unless close behind it stands a warm living public opinion. (Wendell Phillips)

2. The greater the number of laws and enactments, the more thieves and robbers there will be. (Lao-tzu)

Reading tasks

A. Understanding main points

Read text 3B and answer these questions.

1. What are the aims and purposes of the UN?

2. Why was the International Court of Justice established?

3. What international body is responsible for the progressive development and codification of international law?

4. What issues do peacetime aspects of international law involve?

5. Why has the UN refrained from addressing aspects of the law of war and neutrality?

6. When and where were Red Cross Conventions adopted?

7. Why are Red Cross Conventions considered to be very important?

B. Understanding details

Say, whether these statements are true or false.
Find the part of the text that gives the correct information.

1. The International Law Commission and the Commission on International Trade Law are the main bodies of the General Assembly.

2. International law governs the relations among states in peacetime and provides methods for the settlement of disputes by means other than war.

3. Originally there were 180 member states in the UN.

4. The International Court of Justice is one of the subsidiary organs of the UN.

5. All international treaties are initiated by the International Law Commission.

Text 3B

ROLE OF THE UNITED NATIONS

The UN began its life with a membership of 50 nations. In the 1990s, because of the growth of newly independent nations, that number had reached 180. The aims and purposes of the organization encompass the maintenance of peace and security and the suppression of acts of aggression. The Charter also expressly includes among its objectives the maintenance of respect for the obligations arising from treaties and other sources of international law. For that reason the Charter established the International Court of Justice as one of the most important UN organs and specifically charged the General Assembly with the progressive development and codification of international law. To carry out this task, the General Assembly has created two subsidiary organs: the International Law Commission and the Commission on International Trade Law. The International Law Commission, on assignment by the General Assembly, has prepared drafts of treaties codifying and modernizing a number of important subjects of international law, such as various aspects of the law of the sea (1958), diplomatic relations, consular relations, law of treaties between nations, succession of states in respect to treaties, law of treaties between nations and international organizations, and immunity of states from the jurisdiction of other states. Upon acceptance by the General Assembly, these drafts are submitted to international conferences convoked by the UN for the negotiation of the respective conventions.

In some instances, the UN has convoked conferences to negotiate treaties without prior proposal by the International Law Commission. The most important example was the third UN Conference on the Law of the Sea which terminated its work in 1982 with the draft of a convention for a comprehensive regime governing all aspects of the peaceful use of the oceans. Another example is the text of the convention governing the activities of nations on the moon and other celestial bodies, which was adopted by the General Assembly in 1979 and went

into effect in 1984.

Since the UN Charter bans the use of force against the territorial integrity or political independence of any state, the UN has refrained from addressing aspects of the law of war and neutrality. Nevertheless, the four Geneva conventions of 1949 – the so-called Red Cross Conventions – formulated improved agreements relative to the amelioration of the condition of wounded and sick members of the armed forces in the field and at sea, the treatment of prisoners of war, and the protection of civilian persons in wartime, thereby instilling new life into the humanitarian principles of international law.

International law regulates intercourse among nations in peacetime and provides methods for the settlement of disputes by means other than war. Apart from procedures made available by the UN, these methods include direct negotiation between disputants under the established rules of diplomacy, the rendering of good offices by a disinterested third party, and recourse to the International Court of Justice. Other peacetime aspects of international law involve the treatment of foreigners and of foreign investments; the acquisition and loss of citizenship; and status of stateless persons; the extradition of fugitives; and the privileges and duties of diplomatic personnel.

Vocabulary notes

law of treaties – международное договорное право

objective (n) – цель

to encompass (v) – заключать, окружать

maintenance (n) – сохранение в силе, поддержка

in respect to – что касается

subsidiary (adj) **–** дополнительный, вспомогательный

amelioration (n) – улучшение

law of the sea – морское право

to convoke (v) – собирать, созывать

to carry out (v) – выполнять, доводить до конца

celestial bodies – небесные тела

recourse (n) **–** обращение за помощью, прибежище

intercourse (n) – общественные связи или отношения, связь, общение

rendering of good offices – оказание добрых услуг

acquisition and loss – приобретение и утрата (потеря)

fugitive (n) – беженец

recourse (n) – обращение за помощью в суд, обращение к каким-либо мерам; право регресса, регрессивное требование

Vocabulary practice

Match these terms with their definitions.

1. enactment (n)	a) the power, right, or authority to interpret, apply, and declare the law;
2. convention (n)	b) to take and follow (a course of action, for example) by choice or assent;
3. treaty (n)	c) 1) formal meeting of members, representatives, or delegates, as of a political party, profession, or industry; 2) a formal agreement or contract between people and nations;
4. jurisdiction (n)	d) the supreme deliberative body of the UN;
5. charter (n)	e) to draw up a preliminary version of or plan for;
6. negotiation (n)	f) a formal written agreement between two or more states, such as an alliance or trade arrangement;

7. draft (v)	g) the surrender of an accused usually under the provisions of a treaty or statute by one sovereign (as a state or nation) to another that has jurisdiction to try the accused and that has demanded his or her return;
8. adopt (v)	h) the act or process of conferring or discussing to reach agreement in matters of business or state;
9. extradition (n)	i) a grant or guarantee of rights, powers, or privileges from an authority or agency of a state or country;
10. General Assembly	j) the passing of a law by a legislative body.

Complete the following text with the words and phrases listed below.

United Nations; judicial; constitutional; international law; Charter; genocide; General Assembly; illegal; legally; adjudicate disputes; international court; independent; war; ethnic cleansing; commit

The International Court of Justice (ICJ), located in The Hague, Netherlands, is the primary (1) … organ of the (2) … …. . Established in 1945 by the United Nations (3) …, the Court began work in 1946 as the successor to the Permanent Court of International Justice. The Statute of the International Court of Justice, similar to that of its predecessor, is the main (4) … document regulating the Court.

It is based in the Peace Palace in The Hague, Netherlands, sharing the building with the Hague Academy of International Law, a private centre for the study of (5) … … . Several of the Court's current judges are either alumni or former faculty members of the Academy. Its purpose is to (6) … … among states. The court has heard cases related to war crimes, (7) … state interference and (8) … …, among others, and continues to hear cases.

A related court, the International Criminal Court (ICC), began operating in 2002 through international discussions initiated by the (9) … …. It is the first

permanent (10) … … charged with trying those who (11) … the most serious crimes under international law, including (12) … crimes and (13) … . The ICC is functionally (14) … of the UN in terms of personnel and financing, but some meetings of the ICC governing body, the Assembly of States Parties to the Rome Statute, are held at the UN. There is a "relationship agreement" between the ICC and the UN that governs how the two institutions regard each other (15) … .

Speaking practice

1. Make a brief presentation of an international organization exerting strong influence on modern world community.

2. Find information and be ready to speak about the most outstanding UN Secretary General who has made great contribution to global security and international understanding.

UNIT 4

HUMAN RIGHTS

Before you read text 4A

Comment on the following quotations.

1. Laws alone cannot secure freedom of expression; in order that every man present his views without penalty there must be spirit of tolerance in the entire population. (Albert Einstein)

2. An earthquake achieves what the law promises but does not in practice maintain – the equality of all men. (Ignazio Silone)

Reading tasks

A. Understanding main points

Read text 4A and answer these questions.

1. What is the relationship between law and morality?
2. In what way are human rights different from civil rights?
3. What do supporters and opponents of the doctrine of human rights say?
4. In what connection are the names of Plato and Aristotle mentioned in the text?
5. What new tendencies appeared in international law after World War II?
6. What measures promoted the protection of human rights?
7. When and why was the Universal Declaration of Human Rights adopted?
8. What are the sources of the Universal Declaration of Human Rights?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. Every person irrespective of race, religion, and gender should enjoy human rights.
2. Natural law theories were created in the Middle Ages in England.
3. In the twentieth century the idea of God-given ‘natural rights’ became very popular again.
4. Global and regional multilateral treaties dominate in the legal system of the international community.
5. Civil rights depend on the freedoms and social status of citizens in particular societies.

Text 4A

NATURE OF HUMAN RIGHTS

Human rights are rights to which people are entitled by virtue of being human. Human rights are universal in the sense that they belong to all humans rather than to members of any particular state, race, religion, gender or other group. They are also 'fundamental', unlike civil rights, they do not depend on the freedoms and status accorded to citizens in particular societies.

Supporters of the doctrine of human rights portray them as universally

applicable moral principles. Opponents, on the other hand, argue that it is nonsense to suggest that individuals have rights that are separate from the traditions, cultures, and societies to which they belong.

The relationship between law and morality is one of the problems in science. On the surface, law and morality are very different things. Law is a distinctive form of social control, backed up by means of enforcement; it defines what can and what cannot be done.

Morality, on the other hand, is concerned with ethical questions and difference between ‘right’ and ‘wrong’; it prescribes what should and what should not be done. Moreover, while law has an objective character, in that it is a social fact, morality is usually treated as a subjective entity: that is as, a matter of opinion or personal judgement. Nevertheless, natural law theories that date back to Plato and Aristotle suggest that law is, or should be rooted in a moral system of some kind.

In the early modern period such theories were often based on the idea of God-given ‘natural rights’. This assertion of a link between law and morality became fashionable again as the twentieth century progressed, and it was usually associated with the ideas of civil liberties or human rights.

Vocabulary notes

be entitled to smth – иметь право на что-либо

by virtue of smth – в силу чего-либо, на основании чего-либо

applicable (adj) – применимый, надлежащий, соответствующий

entity (n) – сущность, существо, организация; юридическое лицо

assertion (n) – утверждение, притязание, суждение

to back up (v) – поддерживать

by means of enforcement – при помощи принудительного исполнения, посредством правоприменения

Before you read text 4B

Comment on the following quotations.

1. Rather let the crime of the guilty go unpunished than condemn the innocent. (Justinian I, Law Code, A.D. 535)

2. Man, when perfected, is the best of animals, but when separated from law and justice, he is the worst of all. (Aristotle)

Reading tasks

A. Understanding main points

Read text 4B and answer these questions.

1. What measures were taken to guarantee protection of human rights after World War II?

2. What kind of law maintains a central role in the legal system of the international community?

3. When and why was the International Military Tribunal established?

4. How does international law respond to new threats and dangers of modern world?

5. What are the sources of the Universal Declaration of Human Rights?

6. What events prompted codification of human rights in international law?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. The effects of World War II caused the adoption and signing of a number of important international documents on the protection of human rights.

2. The Universal Declaration of Human Rights gave human rights a new international legal status.

3. The International Court of Justice tried and punished the major war criminals of the European Axis powers.

Text 4B

PREREQUISITS OF UNIVERSAL DECLARATION OF HUMAN RIGHTS

Since World War II international law has become increasingly concerned with the protection of human rights. It has provided improved procedures for that purpose within the UN. This new emphasis has also been manifested in the adoption by the UN of the Universal Declaration of Human Rights and the conclusion of the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, the signing of the International Convention on the Elimination of All Forms of Racial Discrimination in 1966, and the adoption in 1975 of the Declaration on the Protection of All Persons from Being Subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment. These measures have been supplemented by regional conventions, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and the American Convention on Human Rights (1969). In 1945 an international convention for the prosecution of the major war criminals of the European Axis powers provided for the punishment of crimes against humanity and established a special International Military Tribunal for that purpose.

New threats constantly call for new international responses. Examples are the conventions against acts of terrorism and the distribution of drugs. Despite the modern multiplication of global and regional multilateral treaties, however, customary international law still maintains a central role in the legal system of the international community.

The Universal Declaration of Human Rights – adopted by the United Nations in 1948 – gave human rights a new international legal status. Building on precedents set by the British Magna Carta (1215), the French Declaration of the Rights of Man (1789), and the United States Bill of Rights (1791), the Universal

Declaration also reflected the events of the 1930s and 1940s, particularly the Nazi Holocaust. Reports of Nazi atrocities shocked people around the world and gave momentum to an effort to codify human rights in international law.

Vocabulary notes

customary international law – международное обычное право

emphasis (n) – акцент

distribution of drugs – распространение наркотиков

supplement (n) **–** дополнение, приложение

multilateral treaties – многосторонние договоры

to provide for (v) **–** предусматривать

European Axis powers – ведущие европейские державы

the Magna Carta – Великая хартия вольностей

atrocities (n) **–** жестокость, зверства

be subjected to torture – подвергаться пыткам

Vocabulary practice

Complete the following text with the words and phrases listed below.

binding; customary; violations; ratify; domestic; regional; prosecute;

European Convention; universal jurisdiction;

legislations; human rights; treaty

International human rights law is a system of laws, both (1) …, regional and international, designed to promote (2) … …. Human rights law is made up of various international human rights instruments which are (3) … to its parties – nation-states that have ratified the (4) ….

An important concept within human rights law is that of (5) … …. This concept, which is not widely accepted, is that any nation is authorized to (6) … and punish (7) … of human rights wherever and whenever they may have occurred.

Some (8) … peremptory norms of human rights are also recognized, and these are considered binding on all nations, even those that have not ratified the relevant treaty.

In principle human rights law is enforced on a domestic level and nation states that (9) … human rights treaties commit themselves to enact domestic human rights (10) … .

In addition to international human rights law, human rights law has been created on a (11) … level. The three regional human rights instrument that form binding human rights law to party states are: African Charter on Human and Peoples' Rights, the American Convention on Human Rights (the Americas) and the (12) … … on Human Rights.

Before you read text 4C

Comment on the following quotations.

1. The law an eye for an eye makes the whole world blind.
(Mahatma Gandhi)

2. Ignorance, filth, and poverty are the missionaries of crime. As long as dishonorable success outranks honest effort – as long as society bows and cringes before the great thieves, there will be little ones enough to fill the jails. (Robert Ingersoll)

Reading tasks

A. Understanding main points

Read text 4C and answer these questions. To answer questions 1and 5 use other sources of information.

1. Where and when was the Universal Declaration of Human Rights adopted?

2. Who proclaims the Declaration as a common standard of achievement for all peoples and all nations?

3. What articles of Universal Declaration of Human Rights protect the natural rights?

4. What articles of Universal Declaration of Human Rights protect the legalistic civil rights?

5. What articles of Universal Declaration of Human Rights can be found in the American Bill of Rights?

B. Understanding details

Say, whether these statements are true or false.

Find the part of the text that gives the correct information.

1. Every person has the right to participate in the government of his or her country either directly or through freely chosen representatives.
2. In case of unfair prosecution a person has the right to seek and to enjoy asylum in other countries.
3. Preamble of the Declaration proclaims the right to equal payment for equal work.
4. The right to education is not mentioned in Universal Declaration of Human Rights.
5. Universal Declaration of Human Rights sets forth not only rights and freedoms of a person but also his or her duties to the community.

Text 4C

UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be

presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association; (2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. (2) Everyone, without any discrimination, has the right to equal pay for equal work. (3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible. (2) In the exercise of his rights and

freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Vocabulary notes

equal and inalienable rights – равные и неотъемлемые права

disregard and contempt – пренебрежение и презрение
persecution (n) – преследование, гонение
outrage the conscience of mankind – возмущать совесть человечества
to promote universal respect – способствовать всеобщему уважению
to strive by teaching and education – способствовать путем просвещения и образования
to secure universal and effective recognition and observance – содействовать всеобщему и эффективному признанию
endowed with reason and conscience – наделены разумом и совестью
security of person – личная неприкосновенность
be subjected to torture – подвергаться пыткам
right to an effective remedy – право на эффективное восстановление в правах
be subjected to arbitrary arrest – подвергаться произвольному аресту
arbitrary interference with privacy – произвольное вмешательство в личную жизнь
to seek and enjoy asylum from prosecution – искать убежища от преследования и пользоваться им
right to a nationality – право на гражданство

right to just and favorable remuneration – право на справедливое и удовлетворительное вознаграждение

general welfare – всеобщее благосостояние

Vocabulary practice

Match these terms with their definitions.

1. entity (n)	a) to do something that is in opposition to a law, agreement or principle;
2. freedom (n)	b) depending on individual discretion (as of a judge) and not fixed by standards, rules, or law;
3. arbitrary (adj)	c) an organization such as a business or governmental unit that has a legal identity which is separate from those of its members;
4. impartial	d) to secure or preserve against restriction, or violation: maintain the status or integrity of esp. through legal or constitutional guarantees;
5. welfare (n)	e) 1. the institution and carrying on of a criminal action involving the process of seeking formal charges against a person and pursuing those charges to final judgment; 2: the party by whom criminal proceedings are instituted or conducted;
6. protect (v)	f) freedom from unauthorized intrusion: state of being let alone and able to keep certain esp. personal matters to oneself;
7. asylum (n)	g) 1. care provided by the state or another organization for people in need; 2. the health and happiness of people, well-being;
8. prosecution (n)	h) 1. the absence of necessity, coercion, or constraint in choice or action; 2. liberation from slavery or restraint or from the power of another;
9. privacy (n)	i) not biased, treating or affecting all equally;
10. violate (v)	j) protection from arrest and extradition given esp. to political refugees by a nation or by an embassy or other agency that has diplomatic immunity.

Complete the following text with the words and phrases listed below.

General Assembly; employment; prohibits; approved; individual; encourage; violations; terms; promotes; declaration; indigenous; identity; United Nations; humanitarian services; Red Cross

The purpose of the United Nations Human Rights Council, established in 2006, is to address (1) … of human rights. The Council is the successor to the United Nations Commission on Human Rights. The Council has 47 members distributed by region, which serve three year (2) …, and may not serve three consecutive terms. A candidate to the body must be (3) … by a majority of the (4) …. In addition, the Council has strict rules for membership, including a universal human rights review.

The rights of some 370 million (5) … peoples around the world is also a focus for the (6) … …, with a Declaration on the Rights of Indigenous Peoples being approved by the General Assembly in 2007. The declaration outlines the (7) … and collective rights to culture, (8) …, language, education, (9) … and health, thereby addressing post-colonial issues which had confronted indigenous peoples for centuries. The (10) … aims to maintain, strengthen and (11) … the growth of indigenous institutions, cultures and traditions. It also (12) … discrimination against indigenous peoples and (13) … their active participation in matters which concern their past, present and future.

In conjunction with other organizations such as the (14) … …, the UN provides food, drinking water, shelter and other (15) … … to populaces suffering from famine, displaced by war, or afflicted by other disasters.

Speaking practice

1. Comment on any article of Universal Declaration of Human Rights. Think about the situation in which this article can be used to enforce somebody's basic civil rights.
2. Imagine that you are a member of a special committee that should revise and improve Universal Declaration of Human Rights. What rights, freedoms or duties would you add?

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