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Для профессорско-преподавательского состава, курсантов и слушателей образовательных организаций МВД России.

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MODULE 1 LAW IN OUR LIFE

Unit 1 INTRODUCTION

Text 1 What is Law?

Definition - определение

Confusion - смущение, путаница

Arise – возникать, появляться

The conduct - поведение

Condemn – приговаривать, осуждать

Regardless – неуважение, пренебрежение

Advantage - преимущество

The question 'What is law?' has troubled people for many years. An entire field of study known as **Jurisprudence** is devoted to answering this question. Many definitions of law exist, but for our purposes, law can be defined as that set of rules or regulations by which a government regulates the conduct of people within a society. Even with this explanation, many questions arise. Where do laws come from? Do we need laws? Are all laws written? Can laws change? If so, how? Are all laws fair? What is the difference between laws and morals?

To understand the law, we must consider the relationships of law to morals. Our legal system is influenced by traditional ideas of rights and wrong. Thus, most people would condemn murder, regardless of what the law said. However, everything that is considered immoral is not necessarily illegal. For example, lying to a friend may be immoral but is rarely illegal.

One thing is certain: Every society that has ever existed has recognized the need for law. These laws may have been written, but even primitive people had rules to regulate the conduct of the group. Without laws, there would be confusion, fear, and disorder. This does not mean that all laws are fair or even good, but imagine how people might take advantage of one another without some set of rules.

Comprehension questions

1. What science studies the question of law?
2. Who is interested in fair law enforcement?
3. What is the best way to understand laws?
4. Are the laws connected with morals?
5. Could you imagine a society without laws?

Ex. 1 Read the text and put the missing words in the gaps: **forms of behaviour, descriptive, prescriptive, customs, rules, governments, behave, break, community, the law of the jungle:**

The English word «law» refers to limits upon various ____1____. Some laws are ____2____: they simply describe how people, or even natural phenomena, usually behave. An example is the rather consistent law of gravity; another is the less consistent laws of economics. Other laws are ____3____ - they prescribe how people ought to behave. For example, the speed limits imposed upon drivers that prescribe how fast we should drive. They rarely describe how fast we actually do drive, of course. In all societies, relations between people are regulated by prescriptive laws. Some of them are ____4____ - that is, informal rules of social and moral behavior. Some are ____5____ we accept if we belong to particular social institutions, such as religious, education and cultural groups. And some are precise laws made by nations and enforced against all citizens within their power. Customs need not to be made by ____6____, and they need not be written down. We learn how we are expected to ____7____ in society through the instruction of family and teachers, advises of our friends, and our experiences in dealing with strangers. Sometimes, we can ____8____ these rules without suffering any penalty. But if we continually break the rules, or break a very important one, other members of society may ridicule us, act violently toward us or refuse to have anything to do with us. The ways in which people talk, eat and drink, work and relax together are usually called customs. Members of every ____9____ have made laws for

themselves in self-protection. If it were not for the law, you could not go out in daylight without the fear of being kidnapped, robbed or murdered. In the absence of law you could only rely upon ____10____. Every country tries, therefore, to provide laws, which will help its people to live safely and comfortable. This is not at all an easy thing to do. No country has been successful in producing laws, which are entirely satisfactory. But the imperfect laws are better than none.

Ex.2 Read the definitions of “law” translated into Russian as «право, закон»:

1. A rule of conduct or procedure established by custom, agreement, or authority.
2. A set of rules or principles dealing with a specific area of a legal system.
3. A way of life.
4. A statement describing a relationship observed to be invariable between or among phenomena for all cases in which the specified conditions are met.
5. A principle of organization, procedure, or technique.
6. A generalization based on consistent experience or results.
7. The collection of rules imposed by authority.

Ex.3 Answer the questions using these expressions:

In my opinion / to my mind - по моему мнению

I can't make up my mind, but - не могу принять решение, но...

I am keeping an open mind for the moment - Пока у меня нет никакого мнения.

I am (not) sure that - я (не) уверен, что...

Firstly, (secondly) - во-первых, (во-вторых)

Finally - наконец

1. We can't live without laws, can we?
2. Why does the society need the law?
3. What spheres of life are regulated by law?
4. Why should people obey laws?
5. What rules of behaviour are accepted in the modern society?

6. Do you agree with the idea that people should look only after themselves and take no care about others?
7. What rules do you obey willingly?
8. What rules would you abolish if you could?
9. Do laws limit your personal freedom?
10. Is it necessary to all people to study law at school?
11. Do you feel that laws really protect you?
12. What law would you initiate if you were a Member of Parliament?

Ex.4 Read and remember idioms with “**law**”:

Law and order – правопорядок

The law of the jungle – закон джунглей

To lay down the law - устанавливать право

Necessity knows no law – нужда не знает закона

To give the law to somebody – навязать кому-либо свою волю

He is a law to himself - для него не существует никаких законов, кроме своего собственного

To take law into one’s own hands - расправиться без суда

Ex.5 Read and remember word-combinations with “**law**”:

1. to make laws – издавать, принимать законы
2. to violate / break laws – нарушать законы
3. to obey laws - соблюдать законы
4. to enforce laws – обеспечивать (принудительно) исполнение законов
5. to apply laws - применять законы
6. to follow the law – избрать профессию юриста
7. to go to law – подать в суд
8. to be against the law – быть противозаконным

9. to study / to read law – изучать право
10. to adopt the laws – принимать законы
11. to repeal laws - отменять законы
12. to amend the law – вносить поправки в закон

Ex.6 Complete the gaps with the word-combinations from the exercise 4:

1. The House of Commons of the British Parliament _____ laws.
2. The government _____ laws and _____ them if they are bad or outdated.
3. The police _____ laws.
4. Courts and judges _____ laws.
5. Law-abiding people _____ laws.
6. The criminals _____ laws.
7. The students of universities _____ law.

Ex.7 Read word combinations with “**law**”

Adjective law	Процессуальное право
Business law	} Торговое право
Commercial law	
Law merchant	
Case law	Прецедентное право
Civil law	Гражданское право
Conflict of laws	Коллизионное право
Contract law	} Договорное право
Law of contract	
Criminal law	Уголовное право
Roman law	Римское право

Law of association	Акционерное право
International trade law	Международное торговое право
Law of obligations	Доказательное право
Law of property	Вещное право
Maritime law	Морское право
Patent law	Патентное право
Registration law	Закон о регистрации актов
Tax law	Налоговое право
English law	Английское право

Ex.8 Read and translate these words and word-combinations. Define the branch of law they describe:

1. Collective bargaining agreements, protection from gender discrimination, wages and hours, health and safety of employees, disciplinary or termination procedures, minimum wage standards, full-time workers, vacation.
2. Divorce, child custody, child support, setting alimony and maintenance, marriage, parents, marriage contract.
3. Literary or artistic works, intangible creation, creator, piracy, trademarks, trade secrets, downloading music from sites.
4. Drinking water, air quality, fertilizers, herbicides, pesticides, odours (аромат, благоухание) from a nearby dump, a polluter, pollution control methods, contamination, nature, trash, recycling.
5. Liquidity, insolvency, accounts, defaulting, liquid assets, capital, bank deposits, foreign currency, loans and credits.
6. Sovereignty, protection of nationals abroad, conventions, The United Nations Charter, treaties, sovereign states, foreign relations, multilateral agreements, mediation.
7. Taxpayers, audit procedures, payment schedules, tax calculations, flat or progressive tax rates, tax evasion, VAT, income tax.

8. Government funding, sale of bonds, hard currency, funds, trends, capital markets, risk management, regulatory restrictions.
9. Offences, penalties, serious crimes, capital punishment, conviction, warrant of arrest, sentence, imprisonment, handcuffs.
10. Civil liability, negligence, harm to a person, defamation, compensation, plaintiff, defendant.

Ex.9 Read word combinations with “**right**”:

Right of action - право предъявления иска

Right of defense - право на защиту

Right to work - право на труд

Right to education - право на образование

Right of asylum - право убежища

Fundamental human **rights** - основные права человека

Right to property - право на собственность

Ex.10 Read and answer the question: **What jurisdiction does the case fall under?**

Matt and Luther *decide* to skip school. They *take* Luther’s brother’s car without telling him and *drive* to a local shopping center. Ignoring the sign “Parking for Handicapped Persons Only”, they *leave* car and *enter* a radio and TV shop. After looking around, they *buy* a portable AM-FM radio. Then they *buy* some sandwiches from a street vendor (уличный торговец) and *walk* to a nearby park. While eating, they *discover* that the radio does not work. In their hurry to return it, they *leave* their trash on the park bench. When Matt and Luther *get back* to the shopping center, they *notice* a large dent in one side of their car. The dent *appears* to be the result of a driver’s carelessly backing out of the out of the next space. They also *notice* that the car has been broken into and that the tape deck has been removed. They *call* the police to report the accident and theft. When the police *arrive*, they *seize* a small clear bag containing illegal drugs from behind the car’s back seat. Matt and Luther *are arrested*.

Ex.11 Put the verbs in the text into the Past Simple forms.

UNIT 2 LAW BACKGROUND

Text 1 Law and Society

to succeed – преуспеть, удаваться

legal obligations – юридическая обязательность, сила

legal implications – юридический смысл, подтекст

plaintiff - истец

testify – давать показания

under oath – под присягой

testimony – показания свидетеля

loan - заем

to become accustomed - стать привычным, обычным

to be in favor of – быть в чью-либо пользу

trial – судебное разбирательство

valid – юридически действительный, имеющий силу

When the world was at a very primitive stage of development there were no laws to regulate life of people. If a man chose to kill his wife or if a woman succeeded in killing her husband that was their own business and no one interfered officially.

But things never stay the same. The life has changed. We live in a complicated world. Scientific and social developments increase the tempo of our daily living activities, make them more involved. Now we need rules and regulations which govern our every social move and action. We have made laws of community living.

Though laws are based on the reasonable needs at the community we often don't notice them. If our neighbor plays loud music late at night, we probably try to discuss the matter with him rather than consulting the police, the lawyer or the courts. When we buy a TV set, or a train ticket or loan money to somebody a lawyer may tell us it represents a contract with legal obligations. But to most of us it is just a ticket that gets us on a train or a TV set to watch.

Only when a neighbor refuses to behave reasonably or when we are injured in a train accident, the money wasn't repaid, the TV set fails to work and the owner of the shop didn't return money or replace it, we do start thinking about the legal implications of everyday activities.

You may wish to take legal action to recover your loss. You may sue against Bert who didn't pay his debt. Thus you become a plaintiff and Bert is a defendant. At the trial you testified under oath about the loan. Bert, in his turn, claimed that it was a gift to him, which was not to be returned. The court after the listening to the testimony of both sides and considering the law decided that it was a loan and directed that judgment be entered in favor of you against Bert.

Some transactions in modern society are so complex that few of us would risk making them without first seeking legal advice. For example, buying or selling a house, setting up a business, or deciding whom to give our property to when we die.

On the whole it seems that people all over the world are becoming more and more accustomed to using legal means to regulate their relations with each other. Multinational companies employ lawyers to ensure that their contracts are valid whenever they do business.

Comprehension questions

1. What increased the tempo of our daily living activities?
2. Why don't we often notice the laws?
3. Have you ever asked for the laws?
4. Why are people all over the world becoming more and more accustomed to using legal means to regulate their relations with each other?
5. What are the laws usually based upon?

Ex.1 Agree or disagree with the statements using the models:

Models: I think / I consider it is true. The text tells us that ...

To my mind / In my opinion, it is false because ...

1. Usually think about the legal implications of everyday activities.
2. Few of us would risk making transactions without first seeking legal advice
3. People all over the world are becoming more and more accustomed to using legal means to regulate their relations with each other

4. Even though the TV set fails to work and the owner of the shop didn't return your money or replace the TV set, we don't start thinking of taking legal advice.

5. When you buy a train ticket a lawyer may tell you it represents a contract with legal obligations.

6. You may not sue against the person who didn't pay his debt.

7. You can testify at the doctor's bad treatment.

8. A defendant can accuse a plaintiff.

9. The court may listen to the testimony of one side.

10. All transactions in modern society are very complex.

11. Nobody should have basic knowledge of law.

Ex. 2 Read and find the definitions above *plaintiff, defendant, trial, judgment, police, lawyer, court, loan, testimony, loss, contract*:

1. _____ is the party that is accused in court of a crime or a civil offence

2. _____ is the party that starts or carries out civil proceedings. It is usually a private citizen or a company.

3. _____ is a civil legal proceeding against someone

4. _____ is an official court decision on the case

5. _____ are an official body whose job is to make sure that people obey the law, to catch criminals, and to protect people and property.

6. _____ is someone whose job is to advise people about laws, write formal documents or represent people in court

7. _____ is a house or a room where all the information about the crime is given so that it can be judged

8. _____ is a sum of money that you owe somebody

9. _____ is a formal statement that something is true, such as the one a witness makes in court of law

10. _____ is money that has been lost by a business, person or a government

11. _____ is legal means (documents) regulating relations between companies.

Text 2 Why does Government Make Laws?

to be angry with somebody – разозлиться на кого-либо

to escape justice - избежать правосудия

nevertheless – тем не менее

to pattern - 1) служить моделью, шаблоном; 2) опираться на что-то

to persuade - убеждать

suspension – приостановка, временное отстранение

prosecution – предъявление иска, обвинение

as a whole – в целом

claim – требование, претензия

When governments make laws for their citizens, they use a system of courts backed by the power of the police to enforce these laws. Of course, there may be instances where the law is not enforced against someone - such as when young children commit crimes, when the police have to concentrate on certain crimes and therefore ignore others, or in countries where there is so much political corruption that certain people are able to escape justice by using their money or influence. But the general nature of the law is enforced equally against all members of the nation.

Government - made laws are nevertheless often patterned upon informal rules of conduct already existing in society, and relations between people are regulated by a combination of all these rules. This relationship can be demonstrated using the example of a sports club.

Suppose a member of a rugby club is so angry with the referee during a club game that he hits him and breaks his nose. At the most informal level of social custom, it is probable that people seeing or hearing about the incident would criticize the player and try to persuade him to apologize and perhaps compensate the referee in some way. At a more formal level, the player would find he had broken the rules of his club, and perhaps of a wider institution governing the

conduct of all people playing rugby, and would face punishment, such as a fine or a suspension before he would be allowed to play another game. Finally, the player might also face prosecution for attacking the referee under laws created by the government of his country.

In many countries there might be two kinds of prosecution. First, the referee could conduct a civil action against the player, demanding compensation for his injury and getting his claim enforced by a court of law if the player failed to agree privately. Second, the police might also start an action against the player for a crime of violence. If found guilty, the player might be sent to prison, or he might be made to pay a fine to the court- that is, punishment for an offence against the state, since governments often consider antisocial behaviour not simply as a matter between two individuals but as a danger to the well-being and order of society as a whole.

Comprehension questions

1. What are the instances where the law is enforced against someone?
2. Why are certain people able to escape justice by using their money or influence? Is it the common practice in any countries?
3. What pattern is usually the government-made law based upon?
4. Do some informal rules of conduct existing in society regulate the relations between people?
5. Is it possible to regulate relations between people by a combination of the government-made laws and any informal rules of conduct?

UNIT 3 SYSTEM OF LAW. CLASSIFICATION OF LAW

Text 1 Classification of Law

peculiarity - особенность

single out – вычленять, выделять

contemporary - современный

substantive – самостоятельный, независимый

to settle - решать

property ownership – частная собственность, право собственности

obligation – необходимость, долженствование

sue – преследовать судебным порядком

statute – законодательный акт, статут

breach – нарушение закона, обязательства

conduct - проводить

trial –судебное разбирательство

constitute procedural law – вводить в силу, издавать процедурное право

bind - обязывать

lawsuit – судебный процесс, тяжба

Every country has its own historically developing system of norms, legal institutions and branches of law, which regulates different types of social relations. In order to understand different aspects of a system of law it is necessary to look at various classifications of law. Numerous classifications that vary from country to country usually reflect the peculiarities of different system of law. Nevertheless there are the most common divisions singled out by contemporary jurists. Thus law is frequently classified into public and private and substantive and procedural.

The distinction is often made between public and private law. Public law deals with matters that affect society as a whole. It includes areas of the law that are known as criminal, constitutional and administrative law. These are the laws that deal with the relationship between the individual and the state, or among jurisdictions. For example, if someone breaks a criminal law, it is regarded as a wrong against society as a whole, and the state takes steps to prosecute the offender.

Private law, on the other hand, deals with the relationships between individuals in society and is used primarily to settle private disputes. Private law deals with such matters as contracts, property ownership, the rights and obligation

of family members, and damage to one's person or property caused by others. When one individual sues another over some private dispute, this is a matter for private law. Private suits are also called "civil" suits.

The next classification which is widely used is subdivision of law into substantive and procedural. There are many laws and legal rules found in statutes, cases decided by courts (legal precedents) and other sources that are applied by courts in order to decide lawsuits. These rules and principles of law are classified as substantive law.

On the other hand, the legal procedures that provide how lawsuit is begun, how the trial is conducted, how appeals are filed, and how a judgment is enforced are called procedural law. In other words, substantive law is the part of the law that defines rights, and procedural law establishes the procedures which enforce and protect these rights. For example, two parties enter into a contract, but then one of the parties breaches this contract. The rules of bringing the breaching party into court and the conduct of the trial are rather mechanical and constitute procedural law. Whether the agreement was enforceable and whether the other party is entitled to damages are matters of substance and will be determined on the basis of the substantive law of contract.

The jurists of all countries admit that it is necessary to differentiate between international law and national law. The latter is also called domestic law or municipal law. The latter is also called domestic law or municipal law. Domestic law is the law which is applicable within the boundaries of one state. International law is the body of legal rules that regulate relations between sovereign states. It is a special system which is not a part of the national law of the state. There are some important differences between international law and domestic law. Domestic laws are passed by legislative bodies, most of which have popular political support. International laws, on the other hand, are created by agreements between governments of different states. As a result, they don't have the support from individual citizens. Enforcement of international laws is also different. Many international agreements or treaties are not binding; even when nations agree to be

bound, it is unclear how obligations to be enforced. Countries differ greatly with regard to the importance attached to international obligations superior to their domestic laws, but in most cases international obligations are considered as a part of national law.

Comprehension questions

1. Are the systems of law common and universal in various countries?
2. What do you think about the superiority of international obligations and domestic laws?
3. What areas of the law does Public law deal with?
4. Why don't international laws have the support from individual citizens?
5. Where is domestic law applicable?

Text 2 Kinds of Law

to owe - быть должным

to charge with a crime – обвинить в преступлении

require - требовать

felony – уголовное преступление

misdemeanor – судебно наказуемый проступок

penalty (for) - наказание

to award - возместить

assault - нападение

personal / real estate - движимое / недвижимое имущество

insurance - страховка

to suffer - страдать

recovery of damages – возмещение убытков

to make amends – вносить поправки

Laws fall into major groups: **criminal** and **civil**. Criminal laws regulate public conduct and set out duties owed to society. A criminal case is legal action by the government against a person charged with committing a crime. Criminal laws have penalties requiring that offenders to be imprisoned, fined, placed under supervision, or punished in some other way. Criminal offenses are divided into felonies and misdemeanors. The maximum penalty for a felony is a term of more than one year in prison. For a misdemeanor the penalty is a prison term of one year or less.

Civil laws regulate relations between individuals or groups of individuals. A civil action (lawsuit) can be brought when one person feels wronged or injured by another person. Courts may award the injured person money for his or her loss, or it may order the person who committed the wrong to make amends in some other way. An example of a civil action is a lawsuit for recovery of damages suffered in an automobile accident. Civil laws regulate many everyday situations such as marriage, divorce, contracts, real estate, insurance, consumer protections, and negligence.

Sometimes one action can violate both civil and criminal law. For example, if Joe beats up Bob, he may have to pay Bob's medical bills under civil law and may be charged with the crime of assault under criminal law.

Comprehension questions

1. What kinds of penalties do Criminal laws have?
2. What is a legal action by the government against a person charged with committing a crime?
3. When can a civil action (lawsuit) be brought?
4. What everyday situations do civil laws regulate?
5. What branches are the criminal offenses divided into?

Text 3 Law System of Russian Federation

substantive law – самостоятельное право

peculiarity – особенность

composite – сложный, составной

The system of law in the Russia Federation is presented by norms, institutions and **branches of law** which together make a single unity. The system reflects social relations regulated by specific norms and institutions of law. Branches of law are supposed to be one of the basic units in the whole **system of law**. Each branch has its own **peculiarities**, which differentiate this very branch from the others, its subject and method and its own place in the system. For years Russian jurists have made attempts **to classify** branches of law. Thus as well as in most other countries law in Russia is divided into public and private, substantive and procedural, **domestic** and international. But there is one more **classification** which is based on certain characteristics of Russian law. Traditionally Russian lawyers single out fundamental, specialized and composite or complex branches of law.

Fundamental branches regulate the most general and important relations in different spheres of **social life**. This category involves branches of **substantive law** such as civil law, criminal law, administrative law, as well as procedural law including civil, criminal and administrative procedural law. Constitutional law doesn't belong to the group of **fundamental branches**. It is traditionally considered to have the leading position among other branches, as the norms of constitutional law serve the basis for the norms of other branches. Constitutional law in Russia concerns the structure of legislative, executive and **judicial** power and principles of their work; the political system of the country; its federative structure; **forms of property**; electoral system; legal status of citizens including their right, duties and liberties. The main source of constitutional law is the Constitution of the Russian Federation.

Comprehension Questions

1. What way is the system of law in the Russia Federation presented by?
 2. What is the essential part of the whole system of law?
 3. What branches of law do Russian lawyers single out?
 4. What branches of **substantive law** could you name?
 5. What part of social and political life does Constitutional law regulate?
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MODULE 2 CIVIL AND PUBLIC LAW

UNIT 4 MAIN CATEGORIES OF CIVIL AND PUBLIC LAW

Text 1 Civil and Public Law

arrangement – 1) приведение в порядок; 2) соглашение, договоренность

to concern – иметь отношение, касаться чего-либо

benefit – выгода, польза, прибыль

the well-being - благополучие

binding agreement - соглашение обязательное к исполнению

whereby – посредством чего

inheritance – наследование, наследство

tort – деликт, гражданское правонарушение

to administrate – управлять, контролировать

unjust - несправедливый

enrichment - обогащение

entirely – полностью, всецело

legal remedy – средство защиты права, средство судебной защиты

The important distinction made in all countries is between **private (or civil) law** and **public law**.

Civil law concerns disputes among citizens within a country, and **public** law concerns disputes between citizens and the state, or between one state and another.

The main categories of English civil law are:

Contracts: binding agreements between people (or companies);

Torts: wrongs committed by one individual against another individual's person property or reputation;

Trusts: arrangements whereby a person administers property for another person's benefit, rather than his own Land Law;

Probate: arrangements for dealing with property after the owner's death;

Family Law

The main categories of public law are:

Crimes: wrongs which, even when committed against an individual are considered to harm the well-being of society in general;

Constitutional Law: regulation of how the law itself operates and of the relation between private citizen and government;

International Law: regulation of relations between governments and also between private citizens of one country and those of another.

In codified systems there are codes that correspond to these categories, for example, France's Code Civil and Code Penal. Justinian's Roman codes covered such areas of law as contracts, property, inheritance, torts, the family, unjust enrichment, the law of persons, and legal remedies, but said little about criminal law. Consequently, most Continental criminal codes are entirely modern inventions.

Comprehension questions

1. What issues does Civil law concern?
2. What issues does Public law concern?
3. Could you name the main categories of English Civil law?
4. Could you name the main categories of English Public law?
5. What areas of law did Justinian's Roman codes cover?

Text 2 Criminal and Civil Law

There are many ways in which the law can be classified. Here we shall limit our discussion to the difference between **criminal** and **civil law** and **substantive** and **procedural law**.

Essential Vocabulary

property - собственность

civil wrong – гражданское правонарушение

to recover the loss – возместить убытки, потери

petty offence – мелкое правонарушение

rape – выговор, легкое наказание

subsequently – впоследствии, потом

to bring a case (against) – возбудить дело

negligence - преступная небрежность, халатность

tort – деликт, гражданское правонарушение

substantive law – самостоятельное право

- *a substantive motion* – предложение по существу (в ООН и т.п.)

A simple distinction between the **criminal law** and the **civil law** is that the latter regulates the relationships between individuals or bodies and the former

regulates the legal relationships between the state and individual people and bodies.

The first practical difference is seen in the parties to the legal action. A civil case will involve two (or more) individual people or bodies whilst the parties to a criminal case will be the state and an individual person or body. Later you will learn how this difference is reflected in the terminology and procedure of the law, but first let us look at an example of both criminal and civil law.

First, the **Civil Law**. Examples of this include the **law of contract, tort** (literally meaning “wrong”) and property. Consider the following situation. You decide to buy a radio from a local shop. You pay the correct price and take the radio away. You have entered into a contract with the owner of the shop. After two days the radio fails to work.

This is a common situation and usually the shopkeeper will replace the radio or return your money. If not, you may wish to take legal action to recover your loss. As the law of contract is part of the civil law the parties to the action will be you (an individual) and the owner of the shop (an individual person or body).

Now let’s look at some examples of the criminal law. This is the law by which the state regulates the conduct of its citizens. Criminal offences range from the petty (e.g. parking offences) to the very serious (e.g. murder, rape). Look at the following situations.

You are driving your car at 70 m.p.h. in an area which has a speed limit of 40 m.p.h. You are stopped by a police officer and subsequently a case is brought against you for dangerous driving.

This is a criminal offence. The parties to the action will therefore be the state (in the form of the prosecuting authority) and you (an individual).

The further point to make is that although the division between civil and criminal law is very clear, there are many actions which will constitute a criminal offence and a civil wrong. Let us look again at the situation where you are driving your car too fast. Suppose that while you were doing this you knocked over and

injured an elderly lady. You will have committed a criminal offence (dangerous driving) and a civil wrong (negligence).

Comprehension questions

1. What is the simple distinction between the criminal law and the civil law?
2. Could you give one example of the criminal law and one example for a civil wrong?
3. What can you say about the parties to the civil action?
4. Who are the parties to a criminal case?
5. What's wrong in the following situation and why?

“Michel has been charged with murder and is sued in the country court. The plaintiff is successful in the action and Michel is found liable. He is punished by being ordered to pay the plaintiff 15.000 dollars in damages”

Text 3 Criminal and Civil Procedure

pursue - преследовать

a defendant – обвиняемый, подсудимый

prosecution – судебное преследование

plaintiff - истец

comply – 1) исполнять 2) подчиняться

on the balance of probabilities – на грани вероятности

disobeying – неподчинение, непослушание

disobedient – непокорный, непослушный

liability – ответственность, обязательство

relevant – уместный, относящийся к делу

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 victim of the crime pursues his claim for compensation in a civil, not a criminal, action. 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».

Criminal and civil procedures are different. In Anglo-American law, the party bringing a criminal action (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 English. But a civil action between Ms. Sanchez and a Mr. Smits would be «Sanchez vs. Smith»

Nevertheless there are many points of contact, between criminal and civil law. In most countries if the loser in a civil case refuses to comply with the order made against him – for example, pay money to the winner of the action – the procedures for forcing him to comply may result in a criminal prosecution. Disobeying any court may constitute criminal conduct, and the disobedient loser of a civil action may find lie or she not only has to pay the damages originally ordered by the court, but a criminal penalty as well.

Although the guilty defendant in a criminal case will not automatically be found liable in a civil action about the same matter, but his chances of avoiding civil liability are not good. This is because the standard of proof in the civil case is lower than it is in the criminal case. The plaintiff will therefore make sure any information about a relevant criminal case is passed to the civil court.

Comprehension questions

1. What can you say about the standards of proof in a criminal action and in a civil one?

2. May the **prosecution** and the **plaintiff** be called the defendant in law action?
3. Could you give any examples of points of contact between criminal and civil law?
4. How must the guilt of a criminal and a civil action be proved in English law?
5. Has the guilty defendant in a criminal case any chances to avoid civil liability?

Text 4 Differences in Procedure

punishment (for) - наказание

pursue - преследовать

penalty – наказание, взыскание

admissible - допустимый

liable – вероятный, возможный

sentence - приговор

imprisonment – тюремное заключение

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 is 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.

Some courts, such as the English Magistrate Courts and the Japanese Family Court, deal with both civil and criminal matters. Others, such as the English Crown Court, deal exclusively with one or the other.

Evidence from a criminal 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 then 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.

Comprehension questions

1. Why are the standards of proof in a criminal action higher than in a civil one?
2. Do you consider it is fair to prove a civil action «on the balance of probabilities»?
3. Can the guilt of a suspect in criminal action be proven if a judging person has a feeling or intuition for the guilt?
4. What is the main difference between criminal and civil procedure?
5. Can the defendant in a civil court be sentenced to the imprisonment?

UNIT 5 CIVIL LAW

Text 1 Civil Law

prominence – выдающееся положение

to distribute - распределять

influential - влиятельный

despite (of) – вопреки, несмотря на

adversary – противник, враг

generalities – общие места, обобщения

inquisitorial – пытливый, любознательный

predetermined - predetermined

scope – 1) границы, масштаб 2) возможности

to deal with – иметь дело с, работать с чем-либо

distinguish (from) – отличие (от)

Civil law is the dominant legal tradition today in most of Europe, all of Central and South America, parts of Asia and Africa, and even some discrete areas of the common-law world (e.g., Louisiana, Quebec, and Puerto Rico). Public international law and the law of the European Community are in large part the product of persons trained in the civil-law tradition. Civil law is older, more widely distributed, and in many ways more influential than the common law. Despite the prominence of the civil-law tradition, judges and lawyers trained in the common-law tradition tend to know little about either the history or present-day operation of the civil law. Beyond the most basic generalities - e.g., the common law follows an “adversarial” model while civil law is more “inquisitorial,” civil law is “code-based,” civil-law judges do not interpret the law but instead follow predetermined legal rules - judges and lawyers from the United States seldom have any deeper sense of the civil-law tradition. This overview is designed for judges and lawyers who seek to expand their knowledge of the civil-law tradition and who might wish to consider the civil law system as a source of legal reforms. The scope of this paper is necessarily limited. Each civil-law country has developed its own distinct legal system that draws on the rich history of the civil law, and it is not possible to discuss here such variations in detail. Moreover, this discussion does not attempt, except in a most general way, to deal with the substantive law of the civil-law systems, which can differ markedly between individual countries and also from that of common-law countries. Instead, it focuses on general features that distinguish the civil-law tradition from the common-law tradition. Particular references are made to the civil-law systems of France and Germany and to two

systems in Latin America, those of Chile and Brazil, because of their strong influence on many other systems.

Comprehension questions

1. Why is civil law in many ways more influential than the common law.
2. In what terms could you define the civil law?
3. Is civil law universal in the legal systems of various countries?
4. What countries had great influence on many other civil-law systems?

Text 2 Torts

tort – деликт, гражданское правонарушение

defamation - клевета

file a suit – тяжба, процесс

trespassing – посягательство, злоупотребление

to undergo – испытывать, переносить

negligent – небрежный, халатный

strict liability – строгое обязательство, задолженность

diligence – прилежание, усердие

to encompass - окружать

occur – случаться, происходить

to purchase – покупать, приобретать

peeler – инструмент для удаления шелухи

pollution - загрязнение

the release of toxins – выброс токсинов

to adhere – придерживаться чего-либо

Tort law is a streamline of law which covers issues of civil wrongs like defamation, and the other actions involving law violations. In case a person has undergone a physical, legal or any economic harm then he can file a suit under the

tort law. If the suit is valid and the defendant of the case loses the case then in such a case the complainant can be compensated with the damages for the loss which he has faced. The majority of the tort cases are handled with the regional, state civil codes and these laws specify the limits on the damages and the limitation of the tort cases. The tort laws are categorized on three broad classes viz: negligent torts, intentional torts and the strict liability torts.

Negligent torts are the cases which occur due to negligent behavior and the failure to perform any task with due diligence. An example of the negligent tort can be when a person in the course of playing cricket cracks down the glass of the living room of an apartment. The unethical medical practices and any other forms of professional negligence fall under the category of negligent torts.

The second categorization of tort law viz intentional tort is the wrong which have an intentional attempt to harm the other person. Examples of the intentional tort are defamation, fraud and false imprisonment. The strict liability torts are the wrongs specific to the products offered by a company, for example consider the fact if you have purchased a peeler and operated it according to the instructions as give and on operation the peeler has cut down your hand, this is an example of the strict liability tort. The tort law encompasses issues like misbehavior such as noise pollution, etc. In some places the issues which are considered very important these days that is the industrial pollution and the release of toxins are also covered under the tort laws, these cases are referred to as “toxic torts”. These toxic torts are used to file cases against the companies and the industrial units who are not adhering to the emission of pollution levels.

The other kind of tort is the nuisance torts which are quite challenging cases to handle as the word nuisance and its definition varies from person to person. It can be understood from the above definition that the tort law do not necessarily cover the physical damages caused to person but they also cover cases of economic nature for which the opposite party has to pay the compensation based on the damages which had occurred. It also covers issues which have been causing damage to the reputation of the people.

Comprehension questions

1. What do the majority of the tort cases handle with?
2. What classes are the tort laws divided into?
3. Could you give any examples of tort cases?
4. How can you define the nuisance torts?
5. What jurisdiction does the noise pollution fall under?

Text 3 Law of Trusts

trust – доверительная собственность

on behalf of – в интересах кого-либо

to require – требовать

beneficiary - лицо, получающее выплаты

law of equity – право справедливости

profit – польза, выгода

settler – поселенец

merge – поглощать, сливаться

to imply – подразумевать, заключать в себя

to owe – быть должным

to oblige – обязывать, принуждать

spouse – супруг / супруга

solicitor – адвокат, дающий советы клиенту и выступающий только в судах низшей инстанции

A **trust** is an agreement whereby property is held and controlled by someone on behalf of someone else. A common example of this is where someone dies and leaves money for grandchildren who are too young to deal with it themselves. The money will be held in the name of trustees — for example, the children's parents. They will be the legal owners of the money and will have the power to invest and make other decisions about it. But they are required to act only in the interests of

the children, known as the beneficiaries of the trust, and they must not make any personal profit.

The concept of a trust is a creation of the law of equity. It is thus unique to common law countries such as the United States and most of the Commonwealth, although many countries, such as Japan have statutes which effectively impose trusts in certain cases. Even though the common law and equitable systems have long been merged, we still talk about the beneficiaries of a trust having an "equitable" interest in the property, the trustees a "legal" interest. In addition, the original intention of equity still survives: to limit the powers of those who have legal rights but owe special responsibilities to others.

Some trusts are known as express trusts, having been intentionally created by someone with property to transfer (a settlor). The example is an express private trust. Other trusts are implied - the law presumes that the settlor intended to create a trust even though he did not expressly say so. In all of these cases, the person appointed to be a trustee has a choice whether or not to accept the appointment when the trust is created. But some trusts are constructive: the law imposes a trust and obliges the legal owner of property to consider the beneficial interest of another person. A common example of this is when the seller of a house is obliged to give a proportion of the proceeds to a former spouse who once lived there with him. Directors of companies and solicitors are often in the position of a constructive trustee regarding property under their control.

Comprehension questions

1. Could you give any common example of trust case?
2. What law is the trust concept based upon in the United States and most of the Commonwealth?
3. How do you understand the definition "**trust**"?
4. What is the original intention of equity?
5. What are the constructive trusts?

Text 4 Probate

probate - наследство

to encompass - окружать

decease – смерть, кончина

estate assets – недвижимое имущество (активы)

in accordance with – в соответствии с

jewelry – драгоценности

decedent – покойный (сущ.)

valid – действительный, имеющий силу

retirement accounts – пенсионные счета

inheritance - наследство

beneficiary - человек, владеющий документами на собственность

tax - налог

fee – плата, гонорар

Probate law encompasses the legal rules that govern the accounting and distribution of a deceased person's assets. In most jurisdictions, a court supervises the process of probate, and an executor or personal representative handles the details of the estate. Usually, an executor is responsible for ensuring that creditors and taxes are paid. In addition, the executor handles distributing estate assets to beneficiaries in accordance with the terms of the will and applicable probate law. If the deceased does not have any assets, probate is unnecessary.

Probate law generally applies in cases where a person has died testate, meaning that he or she has left behind a will. When someone dies testate, a probate court determines whether or not the will is valid. During this process, heirs and beneficiaries may object to the validity of the will. For example, a beneficiary may claim that the deceased was improperly influenced when making the will or that the will was forged.

Even when a deceased person dies intestate, meaning he or she has not left a will, the estate is usually subject to probate. In this case, a court may appoint a

personal representative to oversee the distribution of the estate. According to probate law, the estate generally includes any property belonging to the deceased person at the time of his or her death – from retirement accounts and investments to real property, jewelry, and furniture.

During probate, a listing of the decedent's assets is usually made. The executor or personal representative is generally charged with ensuring all assets are accounted for. For instance, the executor usually documents whether estate assets were used to pay off a creditor or whether they were given to an heir.

Probate can be a long and complex process, and the services of a probate lawyer are often required. Probate lawyers usually receive a percentage of the estate assets for their services. In general, probate documents are public records. As a result, members of the public can determine how much a deceased person's estate is worth as well as who the estate beneficiaries are.

Under probate law in most jurisdictions, assets held in a trust are not required to go through probate because they generally belong to the trust rather than to the trustor. Once the trustor dies, the trustee is usually tasked with distributing the trust property to the trust beneficiaries. This is typically done without court supervision and can be a way to avoid paying certain inheritance taxes or probate court fees.

Comprehension Questions

1. What legal aspects does the law of the probate concern?
2. Does a court supervise the process of probate?
3. What happens when the deceased left no devise?
4. Why are the services of a probate lawyer often required?

Text 5 Family Law

Litigant - истец или ответчик

Vast - большое количество

Attorney - адвокат

Divorce – развод (расторжение брака)

Hiring - прием на работу

Prenuptial – добрачный (предсвадебный)

Family law consists of a body of statutes and case precedents that govern the legal responsibilities between individuals who share a domestic connection. These cases usually involve parties who are related by blood or marriage, but family law can affect those in more distant or casual relationships as well. Due to the emotionally-charged nature of most family law cases, litigants are strongly advised to retain legal counsel.

The vast majority of family law proceedings come about as a result of the termination of a marriage or romantic relationship. Family law attorneys help their clients file for separation or divorce, alimony, and child custody, visitation, and support. Spouses married a short time may seek an annulment, and special rights may exist between same-sex couples. The division of property at the end of a marriage is also a common issue in family law cases.

With respect to property division at the time of divorce, every state has a comprehensive set of laws in place to determine the rights of the parties. However, couples who do not agree with the default rules in their state can “opt-out” by hiring a lawyer to draft a prenuptial agreement. Absent fraud or duress, courts will enforce these premarital agreements upon divorce, and distribute property and financial support accordingly.

Family law also involves the prevention of physical and emotional abuse. The potential for domestic abuse is not limited to relationships between current or former spouses and their children. Judges will not hesitate to assert jurisdiction to protect an elderly family member, someone in a dating relationship, or even a roommate. When allegations of abuse are made, the court will typically issue a restraining order to prevent further contact.

In a contested family law case, most people understand that hiring a skilled attorney will provide an advantage. An attorney can find assets or income the other party is trying to hide, present arguments regarding child support and visitation, and even take the case to trial if settlement talks fail. Attorney representation is just as crucial in uncontested cases, however. Without it, a party is vulnerable and can unknowingly waive important legal rights.

Comprehension Questions:

1. What is the family law?
2. What are the causes of litigation in the family law?
3. What is the most common problem that arises between spouses after a divorce?
4. Will hiring a skilled attorney provide any advantages to the contested spouses?
5. What do you understand as the domestic abuse?

Text 6 Family Law

1. married and unmarried couples – замужние и незамужние пары
2. custody – опекуновство
3. violence – насилие
4. legal intervention – юридическое вмешательство
5. to promote the rights – поощрять права
6. relations through legislation – регулирует семейные отношения
7. the welfare of children – благосостояние детей
8. the type and amount of work – тип и объем работы
9. age limits – возрастные ограничения
10. on behalf of their children - от имени своих детей
11. marital discord – супружеское разногласие
12. disturbed and delinquent family – разрушенная и криминальная семья

13. affection – привязанность

14. must be of a consistent and predictable nature - должны носить последовательный и предсказуемый характер

The law sees the family as a special institution. Family Law considers married and unmarried couples, and their children; custody of and responsibility for children; and protection from violence in the home.

Beyond the mere function of providing a new generation of children, the family is often promoted for its moral contribution to society.

In some societies the family is thought to be so important that there is very little legal intervention in family life. In many Islamic countries, for example, fathers, brothers and sons are allowed considerable authority over the females in their family. But in many parts of the world, the law now promotes the rights of individuals within the family unit, and regulates family relations through legislation. Much of the work of other courts is also directly relevant to family life.

Protection of children

In general, the welfare of children is the biggest concern of family law. Virtually all societies, and certainly all legal systems, treat children differently from adults. There are special courts to deal with young people who commit crimes. In economically developed countries, there are limits on the type and amount of work a child is allowed to do. There are age limits on the rights and duties of citizens; however, these vary from country to country. Parents have a duty to make decisions, for example those concerning education, on behalf of their children.

Delinquency and family failure

Comparison of the children of various diagnostic groups has shown that the behavior problems found in the sociopathic group seem to be familial their parents as well as their children have a high rate of occupational failure, marital discord, arrests and drinking. So the disturbed and delinquent family often produces the disturbed and delinquent children. And this applies to all social classes and to all

income groups. Children require sound discipline and this kind of discipline has at least two components: one, affection; and two, control. Control needs to be consistent and reliable if it is to contribute to a sound and stable character structure. If punishment is to be resorted to, it must be of a consistent and predictable nature.

Comprehension Questions

1. What is included in family law?
2. What ensures the well-being of children?
3. What are the specific features of the legal responsibility of juvenile offenders in developed countries?
4. What are the causes of delinquent behavior in children?
5. What should be the family control and family punishment?

Text 7 Labour Law

to mediate – выступать посредником

to seek (sought) - искать

to arise (arose, arisen) – возникать, появляться

labour union - профсоюз

acceptable conditions – приемлемые условия, обстоятельства

to avoid - избегать

to enforce law – осуществлять закон

predictable - предсказуемый

to struggle - бороться, сражаться

Labour law (also known as **employment law**) mediates the relationship between workers, employing entities, trade unions and the government. **Labour law** is divided into **collective labour law** and **individual labour law**. Collective labour law relates to the relationship between employee, employer and union. Individual labour law regulates employees' rights at work and the contract for work. Employment standards are social norms (in some cases also

technical standards) for the minimum socially acceptable conditions under which employees or contractors are allowed to work. Government agencies (such as the former US Employment Standards Administration) enforce labour law (legislative, regulatory, or judicial).

Labour law arose in parallel with the Industrial Revolution as the relationship between worker and employer. Workers sought better conditions and the right to join (or avoid joining) a labour union, while employers sought a more predictable, flexible and less costly workforce. The state of labour law is both the product and the component of struggles between various social forces.

Comprehension questions

1. What relationship does the Labour Law regulate?
2. What branches is the Labour Law divided into?
3. What do you understand as the employment standards?
4. What enforces the labour law?
5. How do you understand the statement: “Labour law is both the product and the component of struggles between various social forces”?

Text 8 From the History of Labour Law

appalling consequences - ужасающие последствия

framework – структура, рамки

steadily – устойчиво, равномерно

to be slowly laid – медленно происходить

obligations - требования

to be mediated - урегулировать

legal provisions – юридические постановления

to dismiss for illegal reasons – уволить по незаконным причинам

minimum wage – минимальный размер оплаты труда

comprehensive – исчерпывающий, обширный

limb – (здесь) трудное положение

to stipulate – ставить условием, оговаривать

As England was the first country to industrialize, it was also the first to face the often appalling consequences of industrial revolution in a less regulated economic framework. From the late 18th to mid-19th century the foundation for modern labour law was slowly laid, as some of the worse aspects of working conditions were steadily improved through legislation. This was largely achieved through the pressure from social reformers.

From the mid-19th century, attention was first paid to the working conditions for the workforce in general. In 1850, systematic reporting of fatal accidents was made compulsory, and basic safeguards for health and life were put in place from 1855.

A series of further Acts, in 1860 and 1872 extended the legal provisions and strengthened safety provisions. Steady development of the coal industry, increasing association among miners, and increased scientific knowledge paved the way for the Coal Mines Act of 1872, which extended the legislation to similar industries. The same Act included the first comprehensive code of regulation to govern legal safeguards for health, life and limb. The presence of a more certified and competent management and increased levels of inspection were also provided for.

By the end of the century, a comprehensive set of regulations was in place in England that affected all industries. A similar system (with certain national differences) was implemented in other industrializing countries in the latter part of the 19th century and the early 20th century.

Comprehension questions

1. Why was the foundation for modern labour law laid in Great Britain?
2. What was the foundation for modern labour law?
3. What branches did the first Labour Acts regulate?

Text 9 Jurisdictions of Labour Law

amount - количество

supply and demand - предложения и спрос

a price floor – минимальная цена

to be stipulated - специально оговариваться

to cover - покрывать

a full-time worker – работник с полной занятостью

to support - поддерживать

per day – ежедневно

to work longer hours – работать сверхурочно

to prohibit - запрещать

to deal with (dealt) – иметь дело, работать с чем-то

to pass a law – принимать закон

in particular – в частности

unacceptable - неприемлемый

to dismiss – уволить

The basic feature of labour law in almost every country is that the rights and obligations of the worker and the employer are mediated through a contract of employment between the two. The contract is subject to various legal provisions. An employer may not legally offer a contract that pays the worker less than a minimum wage. An employee may not agree to a contract that allows an employer to dismiss them for illegal reasons.

Many jurisdictions define the minimum amount that a worker can be paid per hour. The minimum wage is set usually higher than the lowest wage as determined by the forces of supply and demand in a free market and therefore acts as a price floor. Each country sets its own minimum wage laws and regulations,

and while a majority of industrialized countries has a minimum wage, many developing countries do not.

Minimum wages are regulated and stipulated in some countries. In Sweden minimum wages are negotiated between the labour market parties (unions and employer organizations) through collective agreements that also cover non-union workers and non-organized employers.

National minimum wage laws were first introduced in the United States in 1938. The living wage is higher than the minimum wage and is designed that a full-time worker would be able to support themselves and a small family at that wage.

The maximum number of hours an employer worked per day or other time interval is set by law in many countries. Such laws also control whether workers who work longer hours must be paid additional compensation.

Other labour laws involve safety concerning workers. The earliest English factory law was passed in 1802 and dealt with the safety and health of child textile workers.

Such laws prohibited discrimination against employees as morally unacceptable and illegal, in particular racial discrimination or gender discrimination.

Comprehension questions

1. In what way are the norms of labour law regulated?
2. What jurisdictions of labour law are considered the most important?
3. What is the difference between a minimum wage, the living wage and the lowest wage?
4. What do you think about the norms of labour law in our country?
5. Are the norms of labour law always observed in the world?

Text 10 Employment Law

1. Employment Law – трудовое право
2. contract between employers and employees - договор между работодателями и работниками
3. sex discrimination – половая дискриминация
4. in the interviewing and hiring process - в процессе проведения собеседований и найма
5. employment – трудоустройство
6. reasonable adjustments – разумные корректировки
7. unfair dismissal - несправедливое увольнение
8. redundancy – сокращение
9. Labour law – трудовое законодательство
10. strike – забастовка
11. journal article – нормативный акт
12. employment encyclopedia – энциклопедия занятости
13. the Employment Tribunal – трибунал по вопросам занятости
14. claim – претензия
15. deductions of wages – вычет из заработка
16. redundancy pay – выплата увольнений

1. Employment Law entails contracts between employers and employees which are normally controlled by specific legislation. In the UK, certain laws have been enacted regulating the areas of sex discrimination, race relations, disability, health and safety, and employee rights in general. Also, certain aspects of employment contracts are covered by Trade Union and Labour Relations Acts 1992.

2. The law protects disabled persons by making it unlawful to discriminate against such persons in the interviewing and hiring process and regarding the terms of the offer of employment. Employers are required to make reasonable

adjustments in the place of work to accommodate disabled persons. However, cost may be taken into account when determining what is reasonable.

3. Matters related to termination of employment, such as unfair dismissal, discriminatory dismissal or redundancy dismissal, are governed by the Employment Rights Act 1996. Also, certain aspects of termination of employment are governed by the Trade Union and Labour Relations Act 1992 when the decision to terminate employment is in some way related to the activities of a trade union.

4. Employment law relates to the areas covered above, while labour law refers to the negotiation, collective bargaining and arbitration processes. Labour laws primarily deal with the relationship between employers and trade unions. These laws grant employees the right to unionise and allow employers and employees to engage in certain activities (e.g. strikes, picketing, seeking injunctions, lockouts) so as to have their demands fulfilled.

5. Employment law can be found in a number of different sources. The main sources are the common law, legislation and European law. Other sources include codes of practice and regulations, journal articles, the Internet and employment encyclopedias can also be an invaluable source of information.

6. Employment law disputes are initially heard either in the County Court, High Court or in the Employment Tribunal. Whether the aggrieved party brings his claim in a court or tribunal will depend on the nature of the dispute. Claims concerning breach of contract, wrongful dismissal and applications for injunctions are brought in the courts. Claims involving unfair dismissal, discrimination, equal pay, redundancy pay, deductions of wages, and maternity rights are heard in the Employment Tribunal. In other words, claims involving breach of the common law or contract are brought in the courts and claims involving a breach of a statute are brought in the Employment Tribunal. The exception to this is that there are some claims for breach of contract that can be brought either in the courts or a tribunal.

Comprehension Questions

1. Which groups protect the labor law?
2. What should employers do for disabled persons?
3. What normative act regulates issues related to the termination of employment?
4. What is the difference between Labor law and Employment law?
5. What claims can be filed in the courts or in the court?

Unit 6 PUBLIC LAW

Public law sub-divisions:

- Constitutional law
- Administrative law
- Criminal law

Text 1 Public Law

To confound - сбить с толку

Enactment - принятие закона (введение закона в силу)

To circumvent - обмануть, перехитрить

To void – делать недействительным, аннулировать

To entrench – отстаивать, защищать

Public law is the law governing the relationships between individuals (citizens, companies) and the state. Constitutional law, administrative law and criminal law are sub-divisions of public law.

Generally speaking, private law is the area of law in a society that affects the relationships between individuals or groups without the intervention of the state or government. In many cases the public / private law distinction is confounded by laws that regulate private relations while having been passed by legislative enactment. In some cases these public statutes are known as laws of public order, as private individuals do not have the right to break them and any attempt to circumvent such laws is void as against public policy.

Constitutional Law deals with the relationship between the state and individual, and the relationships between different branches of the state, i.e. the executive, the legislative and the judiciary. In most legal systems, these relationships are specified within a written constitutional document. However, in the United Kingdom of Britain and Northern Ireland (UK), due to historical and political reasons there does not exist one supreme, entrenched written document. The U.K has an unwritten constitution- the constitution of this state is usually found in statutes. Despite all this, in reality, much of the constitution is a political phenomenon, rather than a legal one.

Administrative law refers to the body of law which regulates bureaucratic managerial procedures and is administered by the executive branch of a government and to the body of law that defines the powers of administrative agencies; rather than the judicial or legislative branches (if they are different in that particular jurisdiction). This body of law regulates international trade, manufacturing, pollution, taxation, and the like. This is sometimes seen as a subcategory of Civil law and sometimes called public law as it deals with regulation and public institutions.

Criminal law involves the state imposing sanctions for crimes committed by individuals so that 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

Comprehension Questions

1. What relations does the public law influence?
2. What are the features of law in the UK and Northern Ireland?
3. What does criminal law provide?
4. What are the differences between civil and criminal law?

Text 2 Criminal Law

Wrongful conduct – противоправное поведение

Accused – обвиняемый

Attorney – адвокат

Misdemeanors – проступки

Petty theft – мелкая кража

Burglary – кража со взломом

Murder – убийство

Law enforcement agencies – правоохранительные органы

Criminal prosecution – уголовное преследование

Criminal law involves a system of legal rules designed to keep the public safe and deter wrongful conduct. Those who violate the law face incarceration, fines, and other penalties. The American criminal justice system is both complex, and adversarial in nature. With the exception of minor traffic violations, accused individuals will require the assistance of an attorney.

Specific crimes and the consequences for violating them are found in penal codes enacted by legislators at the local, state, and federal levels. Less serious crimes are classified as misdemeanors. These typically carry a maximum of up to one year in the county jail. Examples include petty theft, possession of small amounts of controlled substances, and first-offense drunk driving.

Crimes of a more serious nature are classified as felonies. These carry punishments of a year or more in state or federal prison. Felonies include violent crimes like murder, burglary, and rape, as well as white collar crimes like embezzlement and money laundering.

When questions arise as to how criminal statutes should be interpreted, judges and lawyers turn to previously issued court opinions dealing with the same issues. This principal is known as “stare decisis.” It means that once a court issues a decision involving a given set of circumstances, that ruling is binding precedent for similar disputes that come before the court on a later date.

Law enforcement agencies have the responsibility of investigating alleged crimes. Procedural rules are in place to ensure police officers respect the constitutional rights of the citizens they investigate. When a defense attorney challenges the legality of a criminal prosecution, most times the dispute is a result of procedural violations by the police.

Comprehension Questions

1. What is the purpose of the criminal justice system?
2. What acts are criminally punishable?
3. What is the judicial precedent?
4. What organs investigate the supposed crimes?
5. What is the classification of crimes?

Text 3 Administrative Law

notion – взгляд (мнение)

regard – внимание (забота)

sheer bulk - массовость

to impede – препятствовать (затруднять)

to reckon – считать; подводить итог

ancillary – подчиненный, служебный

provision – снабжение, обеспечение

to hinder – мешать, препятствовать

to frustrate – расстраивать, срывать (планы)

to assign to - приписывать

Administrative law is the body of law created by administrative agencies in the form of rules, regulations, orders, and decisions to carry out regulatory powers and duties of such agencies. Administrative law is the legal framework within which public administration is carried out. It derives from the need to create and develop a system of public administration under law, a concept that may be

compared with the much older notion of justice under law. Since administration involves the exercise of power by the executive arm of government, administrative law is of constitutional and political, as well as juridical, importance.

There is no universally accepted definition of administrative law, but rationally it may be held to cover the organization, powers, duties, and functions of public authorities of all kinds engaged in administration; their relations with one another and with citizens and nongovernmental bodies; legal methods of controlling public administration; and the rights and liabilities of officials. Administrative law is to a large extent complemented by constitutional law, and the line between them is hard to draw. The organization of a national legislature, the structure of the courts, the characteristics of a cabinet, and the role of the head of state are generally regarded as matters of constitutional law, whereas the substantive and procedural provisions relating to central and local governments and judicial review of administration are reckoned matters of administrative law. But some matters, such as the responsibility of ministers, cannot be exclusively assigned to either administrative or constitutional law. Some French and American jurists regard administrative law as including parts of constitutional law.

The law relating to public health, education, housing, and other, public services could logically be regarded as part of the corpus of administrative law; but because of its sheer bulk it is usually considered ancillary.

One of the principal objects of administrative law is to ensure efficient, economical, and just administration. A system of administrative law that impedes or frustrates administration would clearly be bad, and so, too, would be a system that results in injustice to the individual. But to judge whether administrative law helps or hinders effective administration or works in such a way as to deny justice to the individual involves an examination of the ends that public administration is supposed to serve, as well as the means that it employs.

Comprehension Questions

1. What is administrative law?
2. What aspects of present day life can administrative law cover?
3. What is one of the principal objects of administrative law?
4. Could you give any examples of cases falling under jurisdiction of administrative law?

Text 4 Constitutional Law

ideological structure – идеологическая структура

the principle of separation of powers – принцип разделения властей

lawmaking – законотворчество

interpretation of the law - толкование закона

application of the law – применение закона

to attempt - пытаться

the Supreme Court – Верховный суд

to ignore constitutional rights – игнорирование конституционных прав

oppressive government – репрессивное правительство

individual liberty – личная свобода

the important constitutional principle – важный конституционный принцип

to enforce – исполнять

a presidential office of advisers – президентский пост советников

A constitution is the political and ideological structure within which a system of laws operates. Most countries have a formal written Constitution describing how laws are to be made and enforced.

One of the reasons for having special constitutional laws is to prevent governments from becoming too powerful and from interfering too much in the lives of individuals. As a check upon over powerful government most modern

constitutions have adopted the principle of separation of powers, developed in the 18th century by the French political philosopher Montesquieu (Монтескье).

Montesquieu argued that the functions of the state could be divided into policy formulation and direction (executive), lawmaking (legislative), and interpretation and application of the law (judicial). To stop governments from becoming too powerful these functions should be carried out by separate institutions, and there should be a balance between them. In the United States, for example, the president (executive) is elected by the people and attempts to carry out his policy promises through a presidential office of advisers. The Constitution gives him many important powers, such as control of the armed forces and appointment of Supreme Court justices, but many of his decisions and all new legislation must be approved by a majority in Congress (legislature), which is also elected by the people. Many presidents have had important policies blocked by Congress. The Supreme Court (judiciary) has the task of interpreting laws which have been disputed in lower courts, and of deciding whether a law passed by Congress or by one of the individual states is in keeping with the Constitution.

Britain is unusual because its constitution is not found in a formal written document. Instead, the constitutional rights of citizens and the powers of government are found in various case-law rulings, statutes, and even in traditions. For example, the important constitutional principle that the king or queen must approve any legislation passed by parliament is simply an unwritten tradition that has gradually developed over the last three hundred years. There is a debate in Britain about whether citizens' rights would be better guaranteed by a written constitution, or at least a bill of rights. Some people argue that the government has too much freedom and that it is too easy to change the constitution since all that is needed is a new statute or even a change in traditional procedure. Others argue that the flexibility of an unwritten constitution is a good thing, that the lack of a written constitution has not stood in the way of a long tradition of individual liberty in Britain, and that many countries with constitutions which look liberal on the

surface suffer from oppressive governments which simply find ways to ignore constitutional rights

Comprehension Questions

1. What is the political and ideological structure of a system of laws of Great Britain?
2. What principle has been adopted as a check upon over powerful government?
3. How could the function of the state be divided?
4. In what way are the Where are constitutional rights of citizens and the powers of government of Britain guaranteed?
5. What important powers does the Constitution give to the President of the United States?

MODULE 3 INTERNATIONAL LAW

Unit 7 KINDS OF INTERNATIONAL LAW

Text 1 International Law

throughout the world – по всему миру

to overlap – частично совпадать

dire - ужасный

individual concerns – частные случаи, дела

issue – вопрос, проблема

feasible – выполнимый, осуществимый

to comply with – соответствовать

to occur - случаться, происходить

International law is a body of laws, regulations, and accepted practices by which different nations throughout the world interact with each other as well as with their own citizens and citizens of other countries. There are two basic categories of International Law, public International Law and private International Law, although the two tend to overlap frequently. Public International Law deals

with relationships between different nations or between a nation and persons from another country. Private International Law generally deals with individual concerns, such as civil or human rights issues, not only between a government and its own citizens but also in how its citizens are treated by other nations.

International Law is developed and agreed upon by those that make up the international system, but not every nation state is a member or has a part in the process. Most nations are said to comply with International Law, but that appears questionable considering the number of human rights violations still occurring around the world. While the International community does attempt to hold all nations to International Law, it is not always feasible. Force may be necessary in order to ensure compliance, and the International community is generally against the use of force except in the dire circumstances.

Comprehension Questions

1. What are the specific features of International law?
2. Is every nation state a part of International Law process?
3. What does Public International Law deal with?
4. What does Private International Law generally deal with?
5. The application of International Law around the world is considered questionable, isn't it? Why?

Treaty

A **treaty** is an agreement under international law entered into by actors in international law, namely sovereign states and international organizations. A treaty may also be known as an **(international)**

agreement, protocol, covenant, convention, pact, or exchange of letters, among other terms. Regardless of terminology, all of these forms of agreements are, under international law, equally considered treaties and the rules are the same.

Treaties can be loosely compared to contracts: both are means of willing parties assuming obligations among themselves, and a party to either that fails to live up to their obligations can be held liable under international law.

Text 2 International Air Law

to apply - применять

spacecraft – космический корабль

applicability - применимость

current – современный, текущий

International air law should be applied to aerospace objects while they are in the airspace of another State. The view was expressed that, despite the absence of certain important definitions in international air law, aviation activities continued to develop well. It should be noted that the upper limit of the atmosphere has not been defined in international air law.

Current international air law should prevail while the spacecraft operates within airspace.

The development of space technology required solutions to a number of interconnected questions relating to the applicability of international air law and international space law. The norms of national and international air law are applicable to an aerospace object of one State while it is in the airspace of another State.

Comprehension Questions

1. When should International air law be applied?
2. Has the upper limit of the atmosphere been defined in international air law?
3. What questions does international air law resolve?
4. Why is the international air law necessary in modern life?

Text 3 International Criminal Law

horror - ужас

to spawn – порождать, вызывать

host - множество

perpetrator – нарушитель, преступник

to aspire – стремиться, домогаться

entity – (юр.) лицо, сущность

customary – обычный, традиционный

comprehensive – всеобъемлющий, обширный

The horrors of the Second World War spawned a host of developments in international law. Among the most significant was the crystallization of the principle that violation of certain norms of international law could give rise to individual criminal responsibility. According to this principle, certain serious violations of international law would engage not only the classical form of responsibility in international law, i.e., the responsibility of the state, but also that of the individual human beings perpetrating the violation. Such perpetrators could be criminally prosecuted and punished for these violations of international law.

The emergence of this principle was primarily driven by the need to develop effective means of enforcement. As reasoned by the International Military Tribunal at Nuremberg, “Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced.”

The principle of individual criminal responsibility for violations of certain international norms has now crystallized in treaty law as well as customary international law. The Rome Statute of the International Criminal Court (ICC), adopted in 1998, provides the most comprehensive codification to date of international criminal law. Included within its subject matter jurisdiction are the crimes of aggression, genocide, war crimes, and crimes against humanity. The treaty has been widely ratified, and its Assembly of States Parties aspires to near universal participation.

None the less, the development of international criminal law is a relatively recent phenomenon and takes particular significance in this context. Further, notwithstanding the fact that these norms directly bind individual human beings, it is essential to bear in mind that these norms were generated in an inter-state legal system. Thus, for example, certain crimes will require an inter-state element in order to engage the criminal responsibility of the individual under international law.

Comprehension Question

1. What was the most significant principle of international law?
2. What legal norms does that principle include?
3. Is universal participation necessary for international law treaties? Why?
4. Why do certain crimes require jurisdiction of international law?
5. When was first the principle of individual responsibility formulated?

Text 4 Law of the Sea

to stand out – выделяться, выступать

the High Seas – море за пределами территориальных вод, открытое море

surface – поверхность

to draw up – разработать, создать

to accede – соглашаться, примыкать

the Contiguous Zone – прилегающая зона

conservation of the Living Resources – сохранение живых ресурсов

compulsory – обязательный, принудительный

settlement of disputes – урегулирование споров

binding – обязательный

customary law – обычное право

consequently – следовательно

The adoption in 1982 of the Law of the Sea Convention stands out as a major legal and political achievement for the international community. The law of

the sea provides for the regulation, management and governance of the ocean spaces that cover over two-thirds of the Earth's surface.

The law of the sea was to a large extent codified by the first United Nations Conference on the Law of the Sea (UNCLOS I) at Geneva in 1958, which drew up four conventions: the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and Conservation of the Living Resources of the High Seas, and the Convention on the Continental Shelf². These conventions were ratified or acceded to by forty-six, fifty-seven, thirty-six and fifty-four states respectively, while thirty-eight states became parties to the Optional Protocol on the compulsory settlement of disputes. Most of the provisions of the first two conventions, and some of the provisions of the Convention on the Continental Shelf, codified customary law. Consequently, although the conventions as such are binding only on states which are parties to them, many of their provisions can be used as evidence of customary law even against states which are not parties to them. (However, provisions which were declaratory of customary law in 1958 are not necessarily declaratory of customary law today, because, as we shall see, some rules of customary law have changed since 1958.)

Ex.1 Read the statements and **agree** or **disagree** with them (**True** or **False**):

1. The adoption in 1982 of the Law of the Sea Convention was a great legal and political achievement for the international community.
2. The law of the sea maintains rational usage, management and governance of the unbelievable ocean resources and spaces.
3. The ocean spaces cover over half of the Earth's surface.
4. The law of the sea was adopted by the first United Nations Conference on the Law of the Sea (UNCLOS I) at Geneva in 1958.
5. The Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and Conservation of the Living

Resources of the High Seas, and the Convention on the Continental Shelf 2 were adopted at the basis of United Nations Conference on the Law of the Sea.

6. Most of the provisions of those conventions codified administrative law.

7. Many provisions of those conventions are binding for states which are not parties to them.

Comprehension Questions

1. What was the essence of adoption of the Law of the Sea Convention in 1982?

2. What does the law of the sea provide for the ocean spaces?

3. What part of the Earth's surface do the ocean spaces cover?

4. When were four major conventions of the Sea Law drawn up?

5. When does the Sea Law apply?

Text 5 International Economic Law

seminal – (здесь) плодотворный, конструктивный

encompass – окружать, охватывать

trade - торговля

acknowledge – 1) сознавать 2) подтверждать

relevant – уместный, относящийся к делу

multilateral - многосторонний

"International economic law" is an increasingly seminal field of international law that involves the regulation and conduct of states, international organizations, and private firms operating in the international economic arena. As such, international economic law encompasses a broad range of disciplines touching on public international law, private international law, and domestic law applicable to international business transactions.

For several decades, international economic law was most often associated with international trade, largely due to the fact that trade had developed the most mature multilateral legal institutions (e.g. the GATT and later WTO) for governing

international commerce. Today, however, a range of disciplines are routinely acknowledged as being as impactful and relevant to the field, including:

1. International monetary law;
2. International financial regulation (including banking, derivatives, insurance and securities regulation);
3. International development;
4. International labor and services law;
5. International investment law, including international commercial arbitration;
6. International intellectual property law;
7. International tax law;
8. International environmental law;
9. Sovereign debt and restructuring.

Comprehension Questions

1. Why is "International economic law" considered to be an increasingly seminal field of international law?
2. Where does International economic law operate?
3. What legal disciplines does international economic law touch?
4. What economic branches is international economic law most often associated with?
5. Could you give any examples of International economic law application?

Text 6 Human Rights Law

binding legal effect – обязательный юридический эффект

customary international law – обычное международное право

to derive from – происходить (от)

rule of conduct – правило поведения

obligation – обязательство, долг

to occur – случаться, происходить

abuses – злоупотребления

remedy – (юр.) средство защиты права

to resort to – прибегать (к ч-л.), обращаться к

International human rights law is the body of international law designed to promote human rights on social, regional, and domestic levels. As a form of international law, the international human rights law is primarily made up of treaties, agreements between sovereign states, have been interconnected to have binding legal effect between the parties that have agreed to them; And customary international law, rules of law derived from the rule of conduct. Other international human rights instruments, while not legally binding to the implementation, understanding and development of international human rights law and have been recognized as a source of political obligation.

Enforcement of international human rights law can occur on either a domestic, a regional or an international level. States ratify human rights and treaties. When domestic law fails to provide a remedy for human rights abuses, parties may be able to resort to regional or international mechanisms for enforcing human rights.

Comprehension Questions

1. What are the human rights laws designed for?
2. What legal effect does the international human rights law have?
3. Are the international human rights instruments legally binding to the implementation?
4. What is the base of international human rights law enforcement?
5. What are the mechanisms for enforcing human rights?

Text 7 Environmental Law

Environmental Law – Экологическое право

Fundamental truths – фундаментальные истины

Substantial disagreement - серьезные разногласия

Natural laws – законы природы

Falsified prognoses – фальсифицируемые прогнозы

Starting point – отправной пункт

Similarities – сходства

Straight forward – прямо

Relevant – уместный, относящийся к делу

To distinguish – различать

Indissolubly - неразрывно, прочно

to capture – захватить; поймать, улавливать

to be assessed – подлежать оценке

The question of whether there are laws in ecology is important for a number of reasons. If, as some have suggested, there are no ecological laws, this would seem to distinguish ecology from other branches of science, such as physics. It could also make a difference as to the methodology of ecology. If there are no laws to be discovered, ecologists would seem to be in the business of merely supplying a suite of useful models. These models would need to be assessed for their empirical adequacy but not for their ability to capture fundamental truths or the like. If, however, ecology does have laws, this prompts further questions about what these laws are and why even the best candidates for ecological laws fall short of what might be expected of laws. Such issues lead very naturally to the philosophical question of what laws in science are. There is no straightforward answer to this question, and there is substantial disagreement among those engaging in the relevant debates. A common starting point, at least, is that laws in science are nonaccidental, exceptionless generalizations that make precise, falsifiable predictions. There are good reasons to doubt this account of laws, but still it serves as a useful point of departure. A great deal of the material on this topic focuses on the issue of what laws of nature are and what roles they are supposed to play in scientific theory. The debate about laws in ecology thus crops

up in two different guises: directly tackling the question of laws in ecology and as a debate about the differences and similarities between ecology and physics. The literature on this topic naturally spans both ecology and philosophy of science and is generally well informed from both perspectives. Further progress on the topic of laws in ecology will need to take on board insights from both ecology and the broader interdisciplinary perspective offered by the philosophy of science.

Comprehension Questions

1. Are there any laws in area of ecology?
2. What does Physics and Ecology differ in?
3. What forms does a discussion show up in the area of ecology?
4. What science is indissolubly related to ecology?
5. Does further development of ecology depend on other sciences?

Text 8 Tax Law

Taxes - налоги

Tax law - налоговое законодательство

Source of revenue - источник доходов

Can be taxed - облагаться налогом

Non-payment – неуплата

Qualifying - квалификация

Category of regulations - категория правил

Legislation - законодательство

Rate - ставка

Addresses situations - устранять ситуации

Dues – (мн.ч) налоги, сборы

Qualifying for exemptions – получение права на освобождение от налогов

Seek remedy for non-payment – искать средства защиты от неуплаты

To outline – обрисовать, наметить в общих чертах

Tax law refers to the legislation that regulates the process of government collecting money from citizens or businesses. This money is usually a major source of revenue for governments, but laws are needed to ensure that it is taken in a just and fair manner. Tax law, therefore, tends to outline who must pay taxes and the rate at which they can be taxed. Legislation also addresses situations that may arise in the course of collecting and paying these dues, such as qualifying for exemptions or seeking remedy for non-payment.

It is common for this type of legislation to be referred to as administrative law or public law. Administrative law refers to regulations that are outlined by a government agency. In the United States, for example, much of the tax law is developed by the Internal Revenue Service (IRS). Each state also has its own taxation agency. In some places, tax legislation is known as public law, which defines a category of regulations that affect a government's interaction with the public and vice versa.

Comprehension Questions

1. What is the main source of revenue for the government?
2. Who sets out the administrative law?
3. Which service has developed most of the tax legislation in the US?
4. What does the tax law indicate?
5. What aspects of life does tax law regulate?

Text 9 Intellectual Property Law

1. best-selling book - бестселлер
2. mention - упоминание
3. intellectual property - интеллектуальная собственность
4. to apply - применять
5. permission - разрешение

6. patent - патент
7. copyright - авторское право
8. essential - существенное
9. ownership - владение
10. owned - принадлежать
11. employed - частный предприниматель
12. commissioned - введено в эксплуатацию
13. emphasis - акцент
14. ensure - обеспечить
15. certain amount - определенная сумма

In general, it is not against the law to steal someone else's ideas. If a man I meet in a bar tells me how people can become rich, and I publish a best-selling book based on his ideas, I do not have to pay him any money or even mention his name in the book. But most countries do place legal limits on copying the exact words someone has written, the art or music they have created, or the technology they have invented. Such work is known as intellectual property. The main legal instruments for protecting it are patents and copyrights.

In order to prevent a new discovery or scientific process from being copied, it is necessary to apply for a patent. If granted, a patent makes it illegal for others to manufacture or use the invention without permission. However, a patent will only be granted if the invention has not yet been shown in public and if it has industrial application. Ideas—mathematical and scientific theories, for example—cannot be patented. The patent must be carefully worded since it may be possible for someone to copy any part of the process or invention not mentioned in the patent.

Literature, artistic works, computer programs, movies and radio and television broadcasts cannot be patented, but they can be protected by copyright. In

most countries, such work is automatically protected when it is created; there is no need to apply for or to register copyright. It is usual to record the date of creation and mark it with the international copyright symbol ©, but this is not essential.

As with other kinds of property, intellectual property can only be protected if ownership is clear. The holder of a patent is often a company rather than the individual scientists inventing something in the course of their work. A copyright is usually owned by the creator of the work—the writer, painter or musician—but like other property, it might be passed to someone else. If a journalist is employed by a newspaper then the articles he writes are usually the copyright of the newspaper owner. The copyright in a movie is owned by the film maker, not by individual writers or performers. The copyright in the book is held by the publishers who commissioned it.

In recent years it has been difficult for intellectual property law to keep pace with technological change. Video recording, satellite television, and the use of computers have expanded so rapidly that it is becoming difficult to control copying. The main emphasis of recent laws is not to prevent people from copying, but to ensure they pay for doing so.

The laws of intellectual property usually require anyone wanting to copy something to ask permission from the holder of the patent or copyright. In the case of small-scale use of artistic work, permission is often granted free of charge. For industrial use of a scientific invention, a great deal of money might need to be paid. But most legal systems allow a certain amount of copying even without asking permission.

Comprehension Questions

1. What are the main legal instruments for protecting intellectual property?
2. How is it possible to prevent copying?
3. What intellectual property should not be patented?

4. Who usually owns the copyright?

5. What is in the focus of the recent copyright laws?

Text 10 International Humanitarian Law

International humanitarian law (IHL) - международное гуманитарное право (МГП)

branch of law - отрасль права

armed conflict - вооруженный конфликт

means and methods of warfare – средства, методы ведения войны

Geneva Conventions - Женевская конвенция

Hague Conventions - Гагская конвенция

Case law - прецедентное право

Belligerent nations - воюющие страны

Protected persons - защищенные лица

Humanitarian concerns - гуманитарные проблемы

Military necessity - военная необходимость

International humanitarian law (IHL) is the law that regulates the conduct of war (*jus in bello*). It is that branch of international law which seeks to limit the effects of armed conflict by protecting persons who are not participating in hostilities, and by restricting and regulating the means and methods of warfare available to combatants. IHL is inspired by considerations of humanity and the mitigation of human suffering. "It comprises a set of rules, established by treaty or custom, that seeks to protect persons and property/objects that are (or may be) affected by armed conflict and limits the rights of parties to a conflict to use methods and means of warfare of their choice". [1] It includes "the Geneva Conventions and the Hague Conventions, as well as subsequent treaties, case law, and customary international law". [2] It defines the conduct and responsibilities of

belligerent nations, neutral nations, and individuals engaged in warfare, in relation to each other and to protected persons, usually meaning non-combatants. It is designed to balance humanitarian concerns and military necessity, and subject's warfare to the rule of law by limiting its destructive effect and mitigating human suffering.

Comprehension Questions

1. What is International Humanitarian Law?
2. What is inspired by International Humanitarian Law?
3. Which branches of law does International Humanitarian Law include?
4. Which conventions are included in the International Humanitarian Law?
5. Which conduct is determined by International Humanitarian Law?

Application

Law	
Adjective law	Процессуально право
Business law	Торговое право
Case law	Прецедентное право
Civil law	Гражданское право
Commercial law	Торговое право
Common law	Общее право
Constitution law	Конституционное право
Criminal law	Уголовное право
Economic law	Экономическое право
English law	Английское право
International trade law	Международное торговое право
Judge-made law	Прецедентное право
Maritime law	Морское право
Mercantile law	Торговое право
Law merchant	Торговое право
Law of association	Акционерное право
Law of contracts	Договорное право
Law of equity	Право справедливости
Law of inheritance	Право наследования
Law of negotiable instruments	Право, регулирующее оборотные документы
Law of procedure	Процессуальное право
Law of property	Право собственности

Patent law	Патентное право
Penal law	Уголовное право
Private law	Гражданское право
Roman law	Римское право
Trade law	Торговое право

Law	
Navigation law	Закон о навигации
Law of causality	Закон причинности
Law of history	Закон истории
Law of nature	Закон природы
Law of war	Закон войны
Law on agrarian reform	Закон об аграрной реформе
Law on budget rights	Закон о бюджетном праве
Law on citizenship	Закон о гражданстве
Law on court organization	Закон о судостроительстве
Law on hunting	Закон об охоте
Law on labour protection	Закон об охране труда
Law on land use	Закон о землепользовании
Law on measures and weights	Закон о мерах и весах
Law on procuracy supervision	Закон о прокурорском надзоре
Law on public health	Закон о здравоохранении
Law on state budget	Закон о государственном бюджете

Law on taxes	Закон о налогах
Law on the court	Закон о суде
Law on universal education	Закон о всеобщем образовании
Law on water use	Закон о водопользовании
State law	Писанный закон

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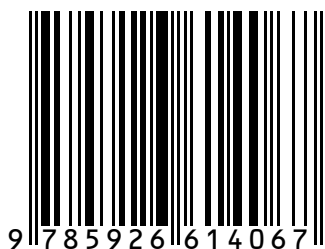
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