

Белорусский государственный университет
Кафедра английского языка гуманитарных факультетов

Legally Speaking



ОБСУЖДАЕМ ПРАВОВЫЕ ПРОБЛЕМЫ

Учебно-методическое пособие
для студентов
юридического факультета

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Цель пособия – развитие навыков профессионального общения будущих юристов на основе аутентичных текстов по тематике, охватывающей такие правовые проблемы, как семейные отношения, преступность несовершеннолетних, справедливое правосудие. учебный материал для самостоятельной работы студентов предлагается в виде аудио-, видео-, компьютерных заданий.

Предназначено для студентов старших курсов юридического факультета.

ПРЕДИСЛОВИЕ

Учебно-методическое пособие предназначено для студентов старших курсов юридического факультета, уже усвоивших базовый курс иностранного языка по специальности «Правоведение» и изучивших терминологию по основным отраслям науки права.

Цель пособия –развитие навыков профессионального общения будущих юристов на базе профессионально значимых тем, способствующих моделированию реальных ситуаций делового общения. Так, обучаемым предлагаются следующие темы:

1. Закон в нашей жизни.
2. Справедливое правосудие.
3. Преступность несовершеннолетних.
4. Правовое регулирование семейных отношений.

Каждый раздел структурно представляет собой подборку аутентичных текстов и статей из периодических изданий, которым предшествуют разнообразные упражнения проблемного характера. Послетекстовые задания направлены на развитие навыков творческого письма, ведение дискуссий на иностранном языке.

Оригинальность пособия заключается в наличии заданий для самостоятельной работы студентов, выполняемых с помощью компьютера.

UNIT I

LIVING BY LAW

Activity 1: Discovering Connections

The law touches the lives of all people, though we are not always conscious of it. Every day in our lives we are restrained and guided by law. It protects us while it restricts us. If we break the law, it punishes us. *So, what is Law?*

1.1 *Brainstorm the answers to the following questions:*

- What associations as a specialist do you have when you hear the word **law**? And what about laymen?
- What definition of the word **law** can you suggest?
- Can a society develop without laws?
- How did ancient people regulate their life and how do we regulate our life in modern society?

1.2 *In some countries, as you know, laws are divided into Public and Private ones. Present the list of different branches of law in the form of a chart in accordance with the above mentioned division. Fill in the chart with the following:*

Constitutional law, Civil law, Contracts, Commercial law, Labour law, Criminal law, Business law, Tax law, Property law, Administrative law, Family law, Trade law, Environmental law, Torts.

Public law	Private Law

1.3 Write down the answers to the following questions, compare them with the answers of the other students and discuss them.

- What are the sources of modern legal systems?
- What are the main features of Common and Civil Law?
- What are governments' motives in making and enforcing laws?
- How can laws be classified?



Listen to the story "The Laws of Singapore". Compare them with the laws of your country.

Activity 2: Vocabulary Focus

2.1 Add suitable adjectives to the nouns. Use the expressions in the sentences of your own.

a law; **b** behaviour; **c** rules; **d** consideration;
e authority; **f** society; **g** body

1 consistent/precise; **2** practical/theoretical; **3** tribal/democratic;
4 informal/formal; **5** prescriptive/descriptive/government-made;
6 ultimate/political; **7** judicial

2.2 Match the following Russian and English equivalents:

1. Общественные традиции и правила
2. Взаимодействие между гражданами
3. Неписанные правила поведения
4. Здравый смысл
5. Закон предписательного характера
6. Практические соображения

- a. Common sense
- b. Informal rules of conduct
- c. Interaction among citizens
- d. Prescriptive law
- e. Practical considerations
- f. Social customs and rules

2.3 Choose the best alternatives to complete the following sentences.

1. Law-making bodies are **backed/inhibited** by the coercive power of the **state/court**.
2. The nature and functions of law **varied/remained the same** through history.
3. Law is a mechanism for social **dogma/change**.
4. Some of **descriptive/prescriptive** rules are customs; others are **precise/consistent** laws enforced by governments.
5. Government-made laws are often patterned upon **informal/formal** rules of conduct.
6. In making laws governments are guided by **theoretical/practical** considerations such as rising crime rates.
7. The governments' purposes in making laws are **interference/control**; implementation of **justice/public opinion**; and **common sense/fairness**.

2.4 Combine logical parts of the statements.

- | | |
|---|--|
| 1. The word 'law' refers to | a. conducting criminal and civil actions against wrong-doers. |
| 2. Law serves | b. courts backed by the power of the police. |
| 3. A major component of early law was | c. limits upon various forms of behavior. |
| 4. Common sense is | d. a blend of custom, morality, religion and magic. |
| 5. Customs are | e. a complex skill based upon long observation of many people. |
| 6. Enforcing laws requires a system of | f. a variety of functions. |
| 7. The two kinds of prosecution in many countries are | g. informal rules of social and moral behaviour. |

2.5 Choose the right words to make the sentences complete. Explain how the word **law** is used in the text.

The word *law* is often used to refer to universal (**1 principles/tasks**) that describe the fundamental nature of something, to (**2 common/universal**) properties and relationships between things, or to descriptions that purport to (**3 find out/explain**) these principles and relationships.

For example, physical laws, or scientific laws attempt to describe the fundamental nature of the (**4 universe/earth**) itself. Laws of mathematics and logic describe the nature of (**5 calculated/rational**) thought and inference. Laws of (**6 economics/business**) describe the nature of human behavior and interaction.

Within most (**7 fields/subjects**) of study, and in science in particular, the elevation of some principle of that field to the status of "law" usually takes place after a very long time during which the principle is used and tested and verified.

Finally, the word is sometimes applied to less rigorous ideas that may be interesting (**8 views/observations**) or relationships, practical or ethical guidelines, also called *rules of thumb*, and even humorous parodies of such laws.

2.6 a) *Try to identify the meaning of the following set-expressions.*

1	2	3	4	5	6
Adjective law	Positive law	Natural law	Draconian laws	Murphy's laws	Common law

- a) Law established and recognized by governmental authority
- b) The law that deals with procedure
- c) A hypothetical body of fundamental principles of ethics
- d) The traditional unwritten law of England, based on custom
- e) Severe and unpopular laws
- f) Laws that imply ruthless truth and practical jokes

b) *Study the above-mentioned expressions in use.*

"Do you know that..."

Adjective law is distinguished from **substantive law**, which defines the rights and duties that the legal system exists to protect and enforce. E.g., in an automobile accident, the questions of whether a driver should pay damages or be imprisoned are matters of substance, whereas the steps that must determine responsibility and assess damages or a penalty are matters of procedure.

Positive law is a statutory man-made law, created by mankind through the state. The term “positive law” was first used by Thomas Hobbes in Leviathan (1651).

Natural law is based on universally accepted moral principles, first mentioned by Roman jurists in the first century AD. The Biblical Ten Commandments, such as “thou shall not kill,” are often included in those principles. Combined with a background of Roman law for stability, it developed into English common law. The teachings and principles of natural law set forth in the Magna Carta, had a great deal to do with English legal development.

Draconian (Draconic) laws were made by a famous Athenians statesman **Draco** (7th century BC). They were very strict and the death penalty was applied to almost all crimes. The Draconian code provided that the punishment for theft was the same as that for murder. The term “draconian” in popular usage describes any law, which is overly strict.

“Surveillance over drugs smuggling is a waiting game, but how long should the investigators wait? If they stopped today,” **Murphy’s law** says, “The drugs would arrive tomorrow.”

Common Law as it is now known has its origins at the beginning of English history. In the twelfth century, Henry II, who inaugurated trial by jury (rather than by ordeal), also set up a system of courts to administer law common to the whole land and to all men.



For more detailed information on the above-mentioned laws make a search in the Internet.

Activity 3: Legally Speaking

There are a lot of collocations with the word *law*. We can use them while discussing everyday and legal situations.

3.1 *Read and explain the following proverbs and sayings. Select the topic for discussion working in groups of three or four.*

- a) Laws catch flies, but the hornets go free.
- b) Laws are not for ordinary people, they are for lawyers.
- c) Justice is nothing unless it is tempered with mercy.

- d) Ignorance of law does not excuse.
- e) Everyone is equal before the law.
- f) Some people are more equal than others.



Listen to the story "A Parcel with Heroin". Which saying from the list above suits this story?

3.2 Match the following expressions with their Russian equivalents. Make up short dialogues with them.

1 Be/go beyond the law; 2 Go to law; 3 The letter of law; 4 Loophole in law; 5 Be at law with sb; 6 Take the law into one's hand; 7 Mob (gibbet) law; 8 Be a law unto (to, unto) oneself; 9 Club law

а Буква закона; **б** Право сильного, «кулачное право»; **с** Закон толпы; **д** Совершить противозаконный поступок; **е** Обратиться в суд; **ф** Расправиться без суда; **г** Лазейка в законе; **h** Ни с чем не считаться кроме собственного мнения; **і** Быть в тяжбе с кем-то

Lawyers have to quote law (refer to legal citations) while working on the case. But in everyday life we often quote famous people, whose once pronounced or written words, became "words of wisdom." Many of well-known quotations are also about *the law*.

3.3 Comment on the following words of wisdom. Can you recollect quotations relating to law in the Russian language?

- Public morals are natural complement of all laws: they are by themselves an entire code.

B. Napoleon

- A patriot must always be ready to defend his country against his government.

Edward Abbey

- If the law supposes it, the law is an ass.

Ch. Dickens

- Power tends to corrupt and absolute power corrupts absolutely.

Lord (John Emerich Edward Dalberg) Acton

- Violence is the last refuge of the incompetent.

Isaac Asimov

- I learned law so well, the day I graduated I sued the college and got my tuition fees back.

Fred Allen



In Multimedia English Course, part I study some more quotations relating to law. Get prepared to discuss them in class.

Activity 4: Legal Reading and Discussion

In order to understand complicated legal issues, a law student should possess the basic knowledge on **general rule of law**.



Watch the episodes from the film “Legally Blonde”. Say what Law is according to Aristotle. Write down Elle’s interpretation of Aristotle’s definition. Which one are you more likely to agree with? Why?

4.1 *Read the text. Answer the questions typed in **bold**. Add your ideas to those given in the text.*

Jurisprudence is the philosophy of law, or the science, which deals with positive law and legal relations. The study of jurisprudence asks the questions such as: **What is law? Where does it come from? Why do we have it? When do we first meet it? Where have you met it?**

Fundamentally, law may be called rules governing behavior between people. Members of a society establish these rules in order to live in relative harmony. To achieve this end, the individual relinquishes certain rights for the good of the group. Law can also be defined as a standard of conduct which

regulates the relations of the individual to the government, the relations of the government to the individual, and the relations between the individuals.

Purposes for law include: to regulate human relations; to fix parameters of freedom in community and relationships by restraining anarchy; to provide justice. But so long we agree, we do not need written law. When we disagree, we must have a system designed to restore us to agreement or decide between us so we do not fall into blood feuds. To have a system we must recognize need for *a Rule of Law*.

What is the sphere in which the law operates in a developed state? It proves to be quite extensive. It embraces all spheres of production, distribution and exchange. Law fixes the forms of administration and constitutional system, it determines the legal status of citizens and activity of the state mechanism. It determines the existing property relations and operates as a regulator of the measure and forms of distribution of labor and its products among the members of society.

When we fail to live in peace, we need compulsion – so the law exists to compel. It does this by punishment. The law also provides an institution, the court system, through which the respective sides can litigate a problem to reach a solution. The law lays down the measures for combating encroachment on the system, the existing order of social relations, together with the forms in which it is done.

How can law be spoken of? - In many different ways: Political, Criminal, Civil, and Constitutional, or Statutory and Procedural. Or case precedent or local custom; or in a vertical manner – international, then national, then district, then city, etc. Or repressive, democratic, autonomous, etc. Yet, the law will, at times, seem arbitrary and capricious. That is because people make decisions, not the law – the law is not self-acting. Rule of Law asks the question: “Are these decisions of people made in a framework of law, or a framework of no law?”

The problem always was, and is: **What is an adequate base for law? What is adequate so that a human desire for freedom can exist without anarchy and yet be gentle enough to provide a form that will not become arbitrary tyranny?**

Jurisprudence has to do with administration, or weighing of justice, or right values. All pronouncements of right and wrong are moral concerns, at their base religious. In creating rights a state inevitably enlarges its bureaucracy. As a state creates new rights, it necessarily diminishes some rights for others. The modern secular view holds that individuals have just rights as law gives them. Rights must have a reference point and specific context or they are

meaningless; reference point determines the nature of the right exercises, defines who possesses it and sets limits to others who must respect it.

Law must be just. **But who decides what is or is not justice?** A legislature passing law? Public opinion directing legislatures? Judges? Juries? Money? Lawyers? Yes, but No – each individual will decide, inside him, when in conflict, whether he will accept the outcome as justice or not. Justice is a moral standard that applies to all human conduct. The laws enforced by governments should have a strong moral element, and justice should be one of the law's guiding principles. If people believe the law to be unjust, and this belief becomes widespread, people may lose respect for the law and may even disobey it. But in democratic societies the law itself provides ways to amend or abolish unjust laws.

4.2 *Make the text outline, entitle each logical part. Compare your outline with those of the other students. Take turns and discuss the points you have outlined.*

4.3 *Discuss in groups:*

- a) Jurisprudence as the philosophy of law.
- b) Purposes of law.
- c) Law and Justice.



◀ *Listen to the stories “Driver Loses Mabel, Finds Jail”, “Jerry Decided to Buy a Gun”, “Freeway Chase Ends at Newsstand” and give evidence of how people are protected and punished by law.*



For more detailed information on the topic look up in Reader Section.

Activity 5: Exploring Texts

What are the problems the mankind brought into the New Millennium? Some are purely legal, others are moral, but in most cases law and morality go hand in hand. Let us read the texts on different legal issues and discuss them.

5.1 “So Sue Me” Yells a Generation

Before reading suggest the ideas which could be discussed in the article under this title.

While reading give your interpretation of the words and expressions in **bold**.

The US is generally regarded as **the most litigious society** in the world. If there's one thing America needs now, it's more lawyers. Imagine what the world would be like without lawyers? The picture then washes into dream imagery of a joyful Utopia in which people of all ages and races dance in a circle to *I'd like to teach the world to sing in perfect harmony*.

Litigation in the US is an immensely important phenomenon, as the decision in the Florida tobacco case illustrates. In June 2000, a jury issued a “death penalty” to the big tobacco companies, ordering them **to pay record punitive damages** of \$145 billion to 500,000 sick smokers in Florida.

In 1999 a Los Angeles **jury awarded a \$4,9 billion judgment** against General Motors for the negligent production of a dangerous car, although the award was later reduced to \$1,2 billion.

The same year a publishing company agreed to pay millions of dollars to the families of three victims of a hired killer who had taken tips on how to kill from one of its books. It was the first case in which a publisher **denied the constitutional right to free speech**, paid compensation to the victims of the crime committed by a reader. The implications are serious. Similar actions were started by bereaved relatives against the gun manufacturer Smith & Wesson, and against Oliver Stone for his film *Natural Born Killers*.

But the compensation culture has arrived to some extent in Britain, too. **Society seems much more titled towards the legalistic settlement of disputes**. You will be asked **to sign solemn legal declarations** if you are about to receive hospital treatment, hand in a university assignment, join a company or even send your child to school. You can buy confectionery nut bars bearing the label “this product may contain nuts”, and a cup of coffee with the warning “this product is hot”.

The range of behavior for which people are being sued, and the sorts of duties that are allegedly being breached, have expanded – schools, for failing to prevent bullying, for example, or employers for exposing employees to unbearable stress.

Yet, curiously, official figures also tell the story of a decline in litigation in England and Wales. It might well be that **the number of actions formally**

commenced has fallen while social litigiousness has risen. This could happen if many more actions were being threatened but were being settled by solicitors before actions went to court. Intriguingly, the phenomenon of a more litigious society can be interpreted in two quite antithetical ways. You can see it as a good thing because **more people are asserting their rights** and are testing claims **to improve the legal protection afforded to customers,** voters, students, patients and employees. You can see it as bad because the **law is putting more people into arms-length, mistrustful relationships** and pervading communities with formal and confrontational styles of dispute settlement.

If the American influence of litigation practice continues to develop in Great Britain, what will the British people see next? In some ways, the approaches are very similar, as in **the principles of establishing negligence or strict liability** but there are key differences. The American court would hear this case with a jury, whereas in the UK a judge alone would hear it.

*by Gary Slappe,
Director of the Law Programme, Open University*

After reading

- *Speculate on the following:*
 - ▶ The US is generally regarded as the most litigious society in the world.
 - ▶ The compensation culture has arrived to some extent in Britain, too.
- *Discuss working in groups:*
 - ▶ pros and cons of the problem as seen by the author;
 - ▶ your positive and negative view on the issue discussed.
- *Express your point of view on the following:*

One of the universal moral principles according to the Bible is “Do not seek revenge or bear a grudge against people, but love your neighbours as yourself.” Does it have anything in common with the problem under discussion?



Listen to the story “Man Injured at Fast Food Place”. Explain the restaurant manager’s actions after the incident.



In Reader Section, study the article “This is a True Story”; get prepared to discuss it in class.

5.2 How the Law is Like Pop Music

Before reading *try to predict some of the author’s ideas on the issue under discussion.*

While reading *the article select facts in support of the author’s viewpoint.*

“The law is like pop music. It sells.”

Without the courts, without lawyers and without trials a lot of people would be out of business. It is well known in the world of television drama that a courtroom story will always be popular. Hollywood law-related movies and especially dramas have been a staple for decades.

These are the obvious examples of marketing the legal brand but it does not stop there. Journalists have made their careers out of analyzing and criticizing the legal system. There has been documentary upon documentary delving into every nook and cranny of long-forgotten miscarriages of justice or the legal system itself. Miles of copy in newspapers are filled with the latest intrigues from court reporters, whether from regional magistrates’ courts or the Old Bailey.

And one of the biggest tourist attractions in London is the tour around the Inns of Court; on an average day there are more camcorders than briefs.

Finally, the law has symbiotic relationship with diverse groups of people, including politicians.

As the general election approaches, it is the Labour Party, which is getting the legal advice of sympathetic lawyers. They will be on standby to advise candidates during the campaign upon any eventuality that may arise in the heat of battle – from election expenses to defamation. Costs are no problem for the Government.

*by John Cooper,
a practicing barrister at 3 Gray’s Inns Square and a TV scriptwriter*

After reading

- *Compare your predictions with what you have learned from the article.*
- *The author alleges that a lot of people would be jobless without courts, lawyers and trials. Do you agree?*
- *Can the author's ideas be applied to the situation in your country?*

5.3 Computer Crime

Before reading *think how you could define a computer crime.*

While reading *search the text to find the descriptions of two classes of computer crimes.*

Computer technology has revolutionized major segments of our society, not the least of which is the business world. With the advent of computers and computerized database systems, a new type of crime has emerged – computer crime. A computer crime is any illegal act requiring knowledge of computer technology.

There are two distinct classes of computer crimes. First, a computer may be used as a tool of a crime, as in cases of embezzlement and fraud, for example, an employee familiar with the computer system in a bank may, by use of the computer, access depositors' accounts and thereby withdraw monies. The second class of computer crimes are those where the computer is the object of a crime. Massive quantities of computer information can be stored on microchips the size of a pinhead. This data is valuable. Like other property, it is the subject of sabotage and destruction. However, more suitable means of erasure and destruction exist. Programs designed to erase existing data can be written and introduced into the system. The modification or elimination of customer accounts product codes, and other financial information could cause a company considerable damage. Moreover, theft may be achieved through unauthorized entry into a computer system by use of an illegally obtained password. Computer time may also be the subject of theft.

Computer crime is a type of crime that often can be only detected by one who has been specifically trained and skilled in computer technology.

After reading

- *Compare your definition of computer crime with the one given in the article.*
- *Define the following statements as **true** or **false**. Correct the wrong statements and widen the right ones:*
 - a. Computer crime is a comparatively new type of crime.
 - b. Anybody can use a computer as a tool for crime.
 - c. Computer information may be subject to sabotage and destruction.
 - d. Computer crime may be detected by an experienced person.
- *In groups, discuss how “ordinary” theft and fraud differ from computer theft and fraud.*



In Multimedia English Course, part I, read the text “Trials of Technology”. Get prepared to discuss the problem.

5.4 Has the Movement Gone Too Far?

Before reading *explain what “assisted suicide” means.*

While reading *pick up the bulk of words and word combinations related to the topic under discussion.*

“There is but one truly serious philosophical problem,” wrote Albert Camus, “and that is suicide.” It never fails to puzzle society when someone claims to have solved it. On March 31, 2003, Britons Robert and Jennifer Stokes flew to Zurich to kill themselves with the help of professionals. The Stokes were in chronic discomfort - Jennifer, 53, suffered from diabetes and Robert, 59, was epileptic - and both reportedly were prone to depression. But neither was terminally ill, according to relatives. In Zurich, the Stokes were greeted by staff members from Dignitas, an assisted-suicide group in Switzerland, where the practice is legal - for patients suffering “intolerable health problems.” (In Belgium, by contrast, patients must be terminally ill.)

Assuming their experience was like that of their other clients, the Dignitas staff then took the Stokes to see founder Ludwig Minelli, to verify their wish to die. A doctor who had reviewed their records prescribed a toxic dose of barbiturates, and the couple was taken to a bare apartment in Zurich. They likely lay down upon two single beds, ate some Swiss chocolate to help them swallow a bitter anti-vomiting medication, and then drank the barbiturate cocktail. Within minutes, they drifted into a coma, then died. The couple had already arranged for a double coffin.

Since the couple's death, Jennifer Stoke's mother and sister have demanded that Dignitas be shut down. British MPs have called for an investigation. "It is a terrible signal for patients and doctors, and for Switzerland," says Oswald Oelz, chief of internal medicine at Triemli Hospital in Zurich. Minelli scoffs at the outcry. "The bottom line is, we should all have the freedom to end our own lives if we are convinced our suffering is unbearable to us." Minelli declined to comment on the specifics of the Stokes case.

"The wish to die is certainly not enough. I have had many people in my office saying 'Please, let me die.' In many cases, there was a solution," says Thomas Schlaepfer, a psychiatry professor at Bern University in Switzerland.

Legislation to tighten the rules on assisted suicide is wending its way through Swiss parliament, but passage is at least a year off. In the meantime, Zurich authorities may at least try to push groups like Dignitas out of residential areas by categorizing them with sex outlets under zoning laws. "Living here is morbid," says one of Dignitas neighbours. "We have to witness a constant parade of coffins."

by Amanda Ripley

After reading

- According to the text different people treat the problem of assisted suicide differently. Compile the table picking up the arguments **for** and **against**.

	For	Against	Key arguments
1. Relatives of the dead couple			
2. L.Minelli, the founder of an assisted-suicide group			
3. British MPs			
4. O.Oelz, chief of the Hospital in Zurich			
5. Th.Schlaepfer, a psychiatry professor			

- *To what extent does your attitude to the problem differ from the views expressed in the article? What are your arguments?*
- *“Mercy killing should not be punished.” What do you think?*



Make a search in the Internet and get prepared for a debate.

- *Organize a debate “**Assisted Suicide or a Merciful Act**”?*

5.5 The Case for Cloning Humans

Before reading *share your opinion on the following:*

- What is “cloning” and “genetic engineering”? What purposes can they be used for?
- Are there any ethical issues related to these problems? If so, what are they?

While reading *explain the meaning of the words and word combinations in **bold**.*

The cloning of humans is now very close to reality. This possibility is one of incredible potentials for all of us.

What is a Human Clone?

A human clone is really just **a time-delayed identical twin** of another person. Science fiction novels and movies have given people the impression that human clones would be **mindless zombies**, Frankenstein monsters, or “doubles.” This is all complete nonsense. Human clones would be human beings like you and me. They would be carried and delivered after nine months by human mother and raised in a family just like everyone else. They would require 18 years to reach adulthood. A clone-twin will be decades younger than the original person. There is no danger of people confusing them. As with identical twins, the clone and **DNA** donor would have different

fingerprints. A clone will not inherit any of the memories of the original person. Human clones would have the same rights and responsibilities as any other human being.

Alleged objections to human cloning:

a) *The very thought is repugnant and disgusting.* Creating another person with the same genetic code would violate human dignity and uniqueness. These arguments are invalidated by the existence of over 150 million people in the world today whose genetic codes are not unique. These are natural identical twins. Natural twins are much more alike than clone-twins, because they are exactly the same age. Are twins or triplets repugnant and disgusting?

b) *It would diminish **genetic diversity**, leaving us more **vulnerable to disease, epidemics, etc.*** This objection is based on an extreme, unjustified extrapolation. There are over five billion people on this planet. Certainly, human cloning will be done on a very modest scale, because of the costs involved and because most women will not want to be mother of a clone.

c) *It could lead to the creation of human monsters and freaks.* Human cloning is not the same as human engineering. In human cloning, the DNA is copied to create someone who is an exact twin of an existing person, and not a monster or a freak. Human genetic engineering would involve the modification of human DNA to create a person who may be unlike any person who previously existed. This could conceivably lead to the creation of very unusual individuals, even monsters. Human genetic engineering, while having vast positive potential, is indeed a very risky undertaking and should be conducted with greatest **circumspection** and oversight.

d) *Evil dictators might abuse human cloning.* There is a possibility that **unscrupulous dictators** might try to **perpetuate their power** by creating a clone of themselves and transferring the power to the clone when they die. There is also the possibility that such people might try to create a super army of thousands of clones, and so on. However, the evil in these scenarios derives not from cloning but from dictatorships.

e) *The technology has not been perfect. It could lead to the death of the unborn clone.* No area of human activity is free of accidental death. Human cloning is no exception. It is absurd to ban a new **technological breakthrough** just because, initially, it is not perfectly safe.

Desirable Governmental Regulations.

Human cloning is a new and unexpected legal area and will definitely require some legal regulation to prevent abuse. Here are some suggestions:

- a) Human clones should be declared to have the same legal rights and responsibilities as any other human being.
- b) A living person should not be cloned without their written consent.
- c) Human clones should only be carried and delivered by a voluntary adult woman.
- d) The cloning of convicted murderers should be prohibited. This should definitely include notorious mass-murderers of the past.

Case closed.

It is clear that human cloning has enormous potential benefits and few real negative consequences. In the areas of scientific advancement and cultural achievement, human clones can make major contribution. In specific cases where abuse of cloning is anticipated, these abuses can be prohibited by **targeted legislation**. Exceptional people are among the world's greatest treasures. Human cloning will allow us to preserve and eventually recover these treasures.

by Steven Vere, California, USA

After reading

- *Compare the answers you gave before reading with the ones from the text.*
- *Give your comments on the major objections to human cloning.*
- *Express your attitude towards the "Desirable Government Regulations".*
- *Make a draft of the Human Cloning Act.*



For more detailed information on the topic "Cloning" look up in Multimedia Course, part I.



Make a search in the Internet and get prepared for a debate.

- *In two teams organize a debate "**Human Cloning: Benefits or Threat**"?*

Activity 6: Legal Writing

6.1 Mastering Translation Skills

Translate into English an article from the Internet using the prompts.

Закон и мораль

Право должно **способствовать утверждению** идеалов добра и справедливости в обществе. Судебные и другие правоприменительные органы обращаются при определении юридических мер к моральным нормам, а некоторые правовые нормы непосредственно закрепляют моральные нормы, усиливая их юридическими санкциями. Через право осуществляется охрана моральных норм и **нравственных устоев**.

promote
strengthening
(consolidation)

Эффективность правовых норм, их исполнение во многом **обуславливается** тем, на сколько они соответствуют требованиям морали. Чтобы правовые нормы работали, они, по крайней мере, не должны противоречить правилам морали. Право в целом должно соответствовать моральным взглядам общества.

moral
principles

be conditioned
by

Всякое нарушение норм права является аморальным поступком, но не всякое нарушение моральных норм является противоправным деянием. В некоторых случаях право способствует избавлению общества от **устаревших** моральных догм.

archaic

6.2 Creative Writing

*Write an essay on the topic “**Living by Law**”, the following quotations being epigraphs to your paper.*

- Chaos often breeds life, when order breeds habit.

Henry Brooks Adams

- Every truth has two sides. It is well to look at both before we commit ourselves to either side.

Aesop

- The price of power is responsibility for the public good.

Winthrop W. Aldrich

UNIT II

THE LAW AND YOUNG PEOPLE

Activity 1: Discovering Connections

Under both domestic and international law **children's rights** to be protected from harm and to have their basic physical and social needs provided are uncontroversial.

Nonetheless children's rights are restricted by two important considerations: firstly, their best interests and secondly, the question of whether children have the mental capacity to exercise their rights responsibly. So, what is the age at which a person is responsible for his/her own actions, for damages, for negligence or intentional wrongs without a parent being liable? Who are **juvenile offenders** and how should they be treated?

1.1 *Discuss in groups:*

- The rights and duties of young people as prescribed by the letter of law.
- Juvenile delinquency as a vital social problem of modern times.
- The type of juvenile behaviour recognized as legally wrong.
- Personal, social and cultural factors that cause delinquency.
- The influence of moral climate in the family on the child's behaviour.

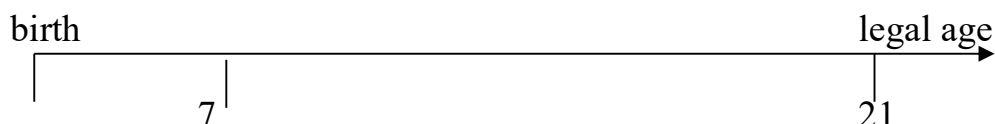
1.2 *Do you agree that*

- the law should be merciful to young offenders;
- juvenile delinquency laws were designed to provide treatment rather than punishment for juvenile offenders;
- the legal term *juvenile delinquent* was established so that young lawbreakers could avoid disgrace, but in today's society it does imply the disgrace of being labeled a delinquent.

Activity 2: Vocabulary Focus

- 2.1 a) *Organize the following words on the age line below. Use curves to mark periods, covering several years.*

A toddler, maturity, an adolescent, a teenager, a preteen, an infant, an adult, a preschooler, an underage person, infancy (legal term), adolescence



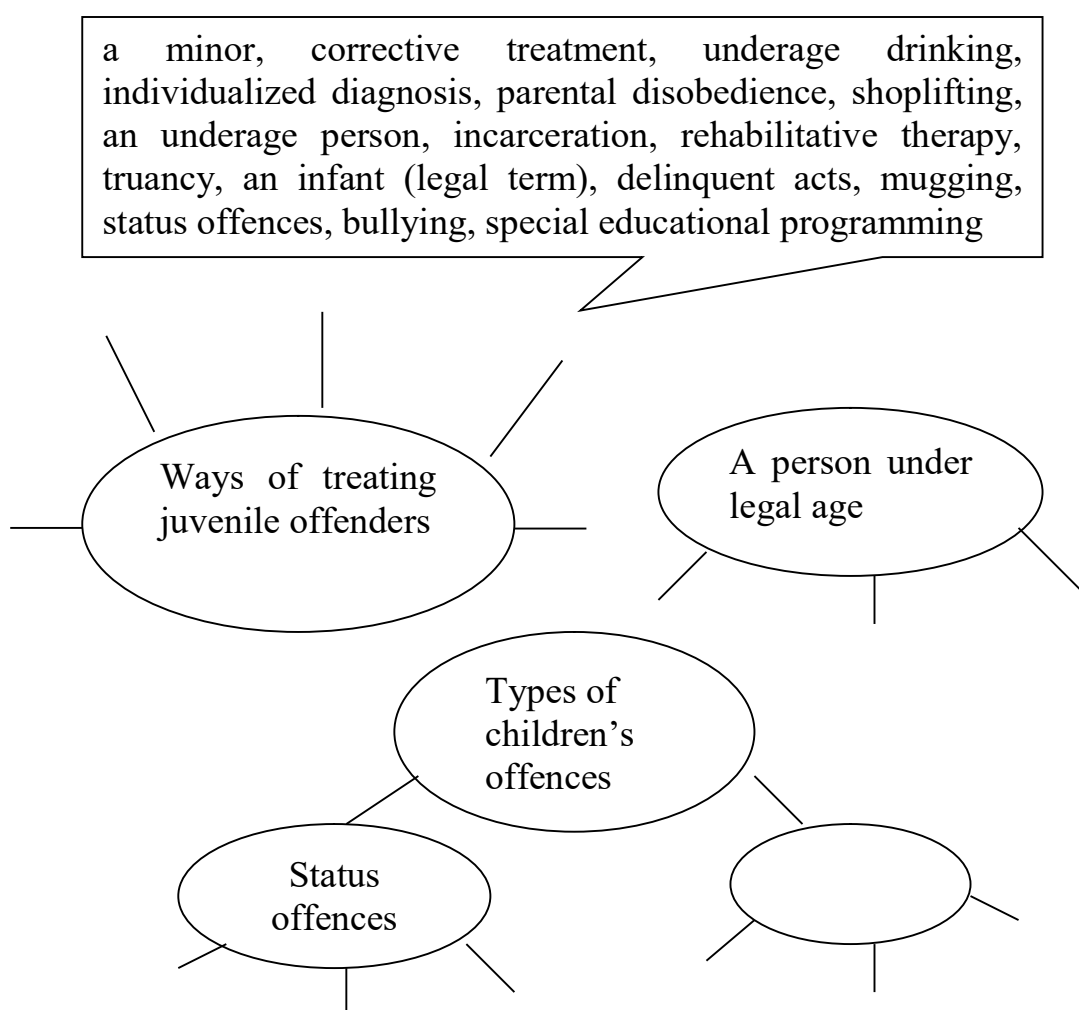
- b) *The following sentences contain sayings in **bold** type. What do they mean? See whether there are equivalent sayings in Russian. Be prepared to discuss your answers to the questions below with a partner.*

1. In your opinion, which method of child upbringing is more effective: using **a whip** or a **spice-cake**?
 2. Some parents prefer **putting their children into hedgehog's mittens**, others let their offspring **live in hothouse conditions**. As a future parent, state your choice.
 3. Ancient Romans used to say that a child is **tabula rasa**. To what extent is it really so?
 4. Do you agree with the saying "**spare the rod and spoil the child**"?
- 2.2 *Read the following statements about the Juvenile Justice system in the USA checking the phrases in bold if necessary. Are there any similar trends concerning delinquents in your country?*

- In the past 20 years, there have been obvious declines in **youth crime rates**.
- In the past 20 years, public perceptions of **youth violence** have contributed to widespread support for the dismantling of the juvenile court system and **tougher crime legislation**, like **trying children as adults** and increasing **incarceration** as the solution to juvenile delinquency.
- Incarceration does not **rehabilitate juvenile offenders**.

- More and more youth who end up in **juvenile halls** or state prisons are **non-violent offenders**.
- Several non-profit organizations work to promote alternatives to incarceration and uphold **rehabilitation** as the primary goal of juvenile justice reform.
- Despite some positive changes, like the evolution of **individualized diagnosis** and **treatment**, new kinds of **rehabilitative therapy**, and improved **educational programming**, the congregate model of concentrating a large number of **young lawbreakers** in one institution has remained.

2.3 Here are some words from task 2.2 as well as additional combinations connected with juvenile delinquency. Divide them into three groups and complete the networks below with appropriate variants. Use a dictionary if necessary.



2.4 Using the words from the previous tasks try to fill in the gaps below.

- a) Although the popular use of this word means a child in his early years of age up to seven, in law, it is a person under-age or minority. Historically a(n) _____ meant a person under 21 years, but statutes adopted in almost all states end it at 18.
- b) Vandalism committed by young lawbreakers is not a crime but a (n) _____, though if committed by adults, it would be considered a crime.
- c) A(n) _____ is less serious misbehavior than described in **b**), for example, regular breaking school discipline.
- d) _____ behavior, when older kids frighten or hurt younger and weaker ones, is a huge problem in many schools.
- e) The British word for skipping classes is _____. Its American informal equivalent is *playing hooky*.
- f) In the USA the national _____ for drinking or buying alcoholic beverages is 21. _____ drinking constitutes a status offence.

2.5 Confirm the questions by repeating the information through different words with the same meaning. Use the verbs and phrases from the box in your answers.

Model: A: I saw Bill driving yesterday. Has he turned 18 already?
 B: Yes, he *came of age* last year.

to come of age, to get away with, to bring up, to take after, to get on well, to put up with, to set fire to sth, to set a good example, to bring out the best in sb

- a) Proper parental care works wonders in *developing the best qualities* of the child, doesn't it?
- b) This child was obviously abused. Can we just *leave it like that*? – No,
- c) It is surprising that both of them *behave* so much *like their father*, right?
- d) Do you mean to say that John was one of those who *threw a burning newspaper into* the police car?
- e) As far as I know, he is an orphan. He *was raised* by his granny, right?
- f) It is hard *to be a good example for* your kids, right?

- g) The man who *stole* computer equipment worth \$30,000 from our office *was never caught*, was he? – Yes,
- h) Joe is *making progress* at school, right?

2.5.1 Choose three or four phrasal verbs or phrases from the previous tasks and build them into a short story. When you have finished you can repeat the activity for a different group of verbs or phrases.

2.5.2 Write down one of the stories and read it to the class.

2.6 Match each expression with one of the explanations; use them in the sentences of your own.

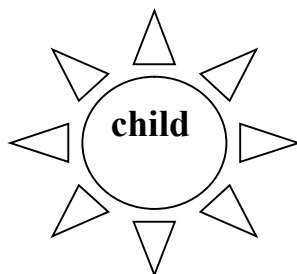
- | | |
|--|------------------------|
| a) A person appointed by a judge to take care of a minor child personally and/or manage that person's affairs | 1. A custodial parent |
| b) A person paid by the local government for taking someone else's child into his home for a period of time without becoming his legal parent | 2. A foster parent |
| c) A parent, who as a result of a court order gets physical and/or legal control and responsibility for a minor after divorce | 3. An orphan |
| d) A person, taking a child into his family and giving him or her all the rights and privileges of one's own child, including the right to inherit as if the child were his natural child. | 4. In loco parentis |
| e) A child, particularly a minor, whose two natural parents are dead | 5. A ward |
| f) A person (usually a minor) who has a guardian appointed by the court to care for and take responsibility for that person | 6. A guardian |
| g) A person appointed by the court only to take legal action on behalf of a minor | 7. A guardian ad litem |
| h) "Instead of a parent" - this identifies a foster parent, a county custodial agency or a boarding school which is taking care of a minor, including protecting his/her rights. | 8. An adoptive parent |

- 2.7** Using some of the words and phrases from the tasks above, write a passage (8-10 sentences) of your own about juvenile delinquency in your country. Present it to the class.

Activity 3: Legally Speaking

- 3.1 a)** Make up word-combinations with the core word **child**
- b)** Identify their meaning using, if necessary, Russian equivalents below. Make up situations with these word combinations.

natural
mistreated
mischievous
neglected
self-willed
problem
unwanted



of nature
of fortune
of tender years
of shame

1 Нежеланный, 2 Незаконнорожденный, 3 Младенец, 4 Своевольный, 5 Непослушный, 6 Дитя природы, 7 Внебрачный ребенок, 8 Баловень судьбы, 9 Ребенок, с которым плохо обращаются, 10 Трудный ребенок, 11 Ребенок, на которого обращают мало внимания

- 3.1.1** Match the English word combinations with the Russian ones. Make up short dialogues.

1 To have/ give birth to
2 To own/acknowledge
3 To bring up/raise/rear **a child**
4 To nurse
5 To indulge/pamper/spoil

a Признать свое отцовство
b Растить
c Баловать
d Родить
e Нянчить

3.2 Study the following proverbs that belong to different cultures. Make short dialogues with them.

- One generation plants the trees; another gets the shade.

Chinese Proverb

- Small children give you headache; big children heartache.

Russian Proverb

- Young wood makes a hot fire.

Greek Proverb

- Youth does not mind where it sets its foot.

Irish Proverb

3.3 Study the text filling in the blanks with the right words. Some blanks are accompanied with explanatory notes to make the task easier. Express your point of view on the information you learn.

Unbearable, residential, monitors, adjudicated, crisis, aftercare, discharged, chronic, accountability, knowledgeable, adjustment, abuse, foster care

Kids Peace Programs. It isn't easy to be a kid these days; and for some kids, it's almost 1 (*intolerable*). Faced with physical and emotional 2 (*cruel treatment*), neglect, drugs, peer pressure and the like - it's enough to send any child spinning into 3. That's why we offer a wide range of 4 (*offering accommodation*) and community services, including a free-standing psychiatric children's hospital, juvenile justice programs and specialized 5. Every day, our 6 (*expert, well-informed*), caring staff members work hard to bring kids the peace they so desperately need.

Kids Peace Prairie Academy, Worthington, MN. Kids Peace Prairie Academy provides a continuum of juvenile justice services for 7 (*received a court ruling*) delinquent youth ages 12-18 who are felony status, misdemeanor

status or _8_ offenders. Prairie Academy provides 24-hour clinical, educational and therapeutic recreational care for this population. Prairie Academy offers long-term residential, diagnostic, detention and shelter care services, in addition to educational training and _9_ (*treatment for those who have just left prison*) services. All programs address issues related to community protection, _10_ (*responsibility for one's actions*) and competency development. The Prairie Academy aftercare program works with the offender and targeted community support systems on successful _11_ (*a change in the way a person behaves*), develops resources and support for youth, and _12_ (*to watch and check over a period of time*) the youth and community on their progress for six months after the youth is _13_ (*given an official permission to leave*).

3.3.1 Match the following Prairie Academy programs for delinquents with their Russian equivalents. Predict what these programs might provide young people with.

A	B
<ul style="list-style-type: none"> a) Aftercare b) Detention c) Diagnostic Program d) Long-Term Residential Program e) Shelter Care f) Short-Term Secure Care g) Long-Term Secure Care and Treatment Program 	<ul style="list-style-type: none"> 1. Диагностическая программа содержания 2. Программа попечения в условиях приюта 3. Программа воспитательно-исправительного воздействия на лиц, отбывших лишение свободы или probation 4. Долгосрочная реинтеграционная программа в условиях постоянного проживания в учреждении 5. Долгосрочная программа профилактического воздействия в условиях лишения свободы 6. Краткосрочная программа попечения в условиях лишения свободы 7. Программа содержания под арестом (особ. до суда)

3.3.2 The last paragraph of the text in 3.3 describes the goals of the aftercare program. Here are the descriptions of four more programs, the names of which are given in the previous task. Identify them and translate the words and phrases in **bold** into Russian.

1. Provides short-term care for males and females ages 12 to 18 who are in need of **immediate shelter** due to **child neglect, endangerment** or other issues that **put a child's welfare at risk**.
2. This short-term *physically secure* program provides services for serious, chronic and/or **violent youth offenders**, as well as for youth arrested and awaiting **court disposition**.
3. This physically secure and fast-track approach utilizes **community service** and on-campus work experiences to satisfy the youth's obligation to the community. The youth will be exposed to the acceptance of responsibility. **Projected length of stay** is 30, 60 or 90 days.
4. Comprehensive diagnostic evaluation for youth ages 10 to 18 who are **court-ordered** to complete the evaluation. The diagnostic process is usually a 45-day **assessment** period.

3.3.3 *Which of these or similar programs are available for juveniles in your country? Choose one and write a paragraph-long description of its goals and length. Use the words from previous tasks and be prepared to share your ideas with a partner.*

3.4 *Look through some definitions of “the generation gap”. Discuss which of them is the most precise one. Why?*

- a) The Generation gap is a difference in values and attitudes between one generation and another, especially between young people and their parents.
- b) The Generation gap is a broad difference in values and attitudes between one generation and another, especially between parents and their children.
- c) The Generation gap is the differences in customs, attitudes, and beliefs between any two generations, but especially between youths and adults.

3.4.1 *Try to match the nicknames of different generations of people in the USA and the years when they were born. Do you happen to know how they got them? Compare your answers with those given in the article.*

Baby Boomers	1965-75
Silent Generation	1946-64
New/Millennial Generation	1976-81
Generation X/Baby Busters	1950-60
Generation Y/Baby Boomlet	1925-42

Nearly fifty million Americans were born to *the Silent Generation* in America between 1925 and 1942. After them there was *the Boom Generation*, then *the X*, after that - *the Y* and now *the Millennial*. No generation has so small a reputation as does the Silent. No generation since the American Civil War has been so misunderstood and underestimated. The Boom Generation was called so because of high birthrates at that time. Contrasted to them there were Baby Busters, when there was a decline in birthrates. Generation X were the first to be brought up with computers. The next generation is called Generation Y, (or is that “Why?”) also known as the Baby Boomlet, because birthrates went up again in those years.

3.4.2 *What are the problems of the present young generation? Define these problems, then study the article and discuss it in groups.*

And now a new generation emerges. And everyone is asking, “What are they like?” Life in the 1990s has become stressful to young people. As the percentage of the teenage population decreases relative to the adult world, the numbers of teenage pregnancies continue to rise; there are a growing number of minorities living at the poverty level; and there are a growing number of single parent households. The most serious cause for concern, however, is the rise of suicide. The rate of 18 suicides per 100,000 teens in 1987, places this problem at an epidemic proportion. Social scientists, therefore, are studying teenagers more closely than ever in order to trace the problem to the source. The pressure to succeed seems to be at the root of all of these problems. Pressure at a younger age to find a job, to choose a career, to do well at school, to have a good marriage and family life, to pay for college, and the fear of contracting AIDS are all concerns that plague the minds of young people.

3.4.3 *What a Difference a Generation Makes?*

These humorous notes seem to lack any serious problem. Do they really? Read them and continue a list with contradictions of the generation gap between you and your elders.

1970s: Long Hair.

2000s: Longing for hair.

1970s: Trying to look like M. Brando or Elizabeth Taylor.

2000s: Trying *not* to look like M. Brando or Elizabeth Taylor.

1970s: Our president's struggle with Fidel.
2000s: Our (former) president's struggle with fidelity.

1970s: Hoping for a BMW.
2000s: Hoping for a BM (medicine for constipation).

1970s: Rolling Stones.
2000s: Kidney stones.

1970s: Being called into the principal's office.
2000s: Calling the principal's office.

1970s: Peace sign.
2000s: Mercedes logo.

1970s: Parents begging you to get your hair cut.
2000s: Children begging you to get their heads shaved.

1970s: Passing the driver's test.
2000s: Passing the vision test.

1970s: Whatever.
2000s: Depends.



◀ *Listen to the tape "Tattoo". Write down the questions and answer them.*

3.5 *Comment on the following words of wisdom. Can you recollect quotations relating to children and youth in the Russian language?*

- Children have never been very good at listening to their elders, but they have never failed to imitate them."

*James Arthur Baldwin, American essayist,
novelist and playwright (1924 –87)*

- There was a time when we expected nothing of our children but obedience, as opposed to the present, when we expect everything of them but obedience.

Anatole Broyard

- It is not giving children more that spoils them; it is giving them more to avoid confrontation.

John Gray, "Children Are From Heaven"

- Children begin by loving their parents; as they grow older they judge them; sometimes they forgive them.

Oscar Wilde (1854 - 1900) "The Picture of Dorian Gray"



Watch an episode from the film "Forrest Gump". What generation is described there? Name the problems that generation faced.

Activity 4: Legal Reading and Discussion

"Children are our investment in the future" – the state and law protect children and observe children's rights. Child abuse is strictly punished. But what if minors commit a crime? Are they above the law? The law says "No". Should they be treated differently from adult offenders? – "Definitely, yes."

4.1 While reading the text make notes under the following headings:

- ★ *Juvenile crime* ★ *History* ★ *Types of juvenile gangs*
- ★ *Causes of delinquency* ★ *Juvenile crime in different countries*

Juvenile Delinquency

Juvenile Crime, in law, means various offenses committed by children or youths under the age of 18. Such acts are sometimes referred to as ***juvenile delinquency***. Children's offenses typically include delinquent acts, which would be considered crimes if committed by adults, and offenses, which are less serious misbehavior such as truancy and parental disobedience. Both are within the jurisdiction of the juvenile court; more serious offenses committed by minors may be tried in criminal court and be subject to prison sentences. Under Anglo-American law, a crime is an illegal act committed by a person

who has criminal intent. A long-standing presumption held that, although a person of almost any age can commit a criminal act, children under 14 years old were unlikely to have criminal intent. Many juvenile courts have now discarded this so-called infancy defense and have found that delinquent acts can be committed by children of any age.

Since ancient times enlightened legal systems have distinguished between juvenile delinquents and adult criminals. The immature generally were not considered morally responsible for their behavior. Under the Code Napoleon in France, for example, limited responsibility was ascribed to children under the age of 16. Despite the apparent humanity of some early statutes, however, the punishment of juvenile offenders until the 19th century was often severe. Sentences for all offenders could be harsh and the death penalty was occasionally imposed.

The public appears much more aware of juvenile crime today than in the past; this is due in part to more thorough reporting techniques and greater emphasis on publicizing delinquent acts in the media.

Official records indicate that much juvenile crime is a group or gang activity. Juvenile gangs are typically classified as violent, delinquent, or social. Members of violent gangs sometimes have unstable personalities. The delinquent gang is a small cohesive group developed to carry out criminal acts, such as petty thievery and mugging. Although violence may be used, the primary goal is material gain. The social gang is a relatively permanent group of youths who generally exist in accord with society.

Many theories concerning the causes of juvenile crime focus either on the individual or on society as the major contributing influence. Theories centering on the individual suggest that children engage in criminal behavior because they were not sufficiently penalized for previous delinquent acts or that they have learned criminal behavior through interaction with others. Theories focusing on the role of society in juvenile delinquency suggest that children commit crimes in response to their failure to rise above their socioeconomic status.

Most theories of juvenile delinquency have focused on children from disadvantaged families, ignoring the fact that children from affluent homes also commit crimes. The latter may commit crimes because of the lack of adequate parental control, delays in achieving adult status.

Families have also experienced changes within the last 25 years. More families consist of one-parent households or two working parents; consequently, children are likely to have less supervision at home than was common in the traditional family structure. This lack of parental supervision is thought to be an influence on juvenile crime rates. Other identifiable causes of

delinquent acts include frustration or failure in school, the increased availability of drugs and alcohol, and the growing incidence of child abuse and child neglect.

Comparisons of the juvenile crime rates in various countries are severely limited by wide variations in national legal systems, categories of criminal behavior, and methods of reporting crimes; certain similarities are apparent, however. For example, Canadian, Australian, and European victimization studies show the actual number of crimes to be several times those known to the authorities. Also, homicide rates in France, Spain, and the United Kingdom are far lower than those in such countries as the United States and Mexico.

The major causes of delinquency in various countries are related to each nation's economic and social environment. In Brazil, for instance, the incidence of widespread poverty and the number of abandoned children in large city slums may be primary causes of juvenile crime. Delinquency research in India suggests that the primary causes are the changing social system, the population explosion, and shifting morals and values. Egypt reports that known delinquency has doubled in recent times, coupled with a decline in available services for offenders.

Many countries, such as Japan, report a decline in the number of juvenile delinquents that parallels a decline in the number of young people generally. Almost universally reported is the fundamental change in or breakdown of traditional patterns of family living, and this is cited as a major cause of juvenile crime around the world.

contributed by: Victor L. Streib, Lynn Sametz

4.2 *Using your notes, talk on current issues of juvenile crime.*

4.3 *Make a list of theories which tend to explain juvenile crime. Act as a sociologist / criminologist / teacher / parent and give reasons supporting or rejecting these theories.*



◀ *Listen to the tape "Street Survey about the Rise of Juvenile Crime", discuss the reasons of crime rise among youngsters.*



In Reader Section read the article "Juvenile Delinquency: a Brief History", discuss it in class.



Make an Internet Research Project on Causes of Juvenile Crime.

Activity 5: Exploring Texts

Throughout all time there have been “difficult”, unmanageable children. There has always been delinquency, though it may not have had the delinquency label. How do children turn into young rebels? What kind of people are the youngsters who commit crimes?

5.1 Child Abuse

Before reading *contemplate on the problem of child abuse as one of the major social problems nowadays. Could you say what causes child abuse?*

While reading *make notes of the main points of the text; list the actions which can be considered as child maltreatment.*

Child Abuse includes intentional acts that result in physical or emotional harm to children. The term child abuse covers a wide range of behavior, from actual physical assault by parents or other adult caretakers to neglect of a child's basic needs.

Child abuse is also sometimes called child maltreatment. Although the extent of child abuse is difficult to measure, it is recognized as a major social problem. Cultures around the world have different standards in deciding what constitutes child abuse. In Sweden, for example, the law prohibits any physical punishment of children, including spanking. By contrast, in some countries of Asia, Africa, and the Caribbean, parents are expected to punish their children by hitting them.

There are several different types of child abuse, and some children experience more than one form. *Physical abuse* includes deliberate acts of violence that injure or even kill a child. Unexplained bruises, broken bones, or burn marks on a child may be signs of physical abuse.

Sexual abuse occurs when adults use children for sexual gratification or expose them to sexual activities.

Emotional abuse destroys a child's self-esteem. Such abuse commonly includes repeated verbal abuse of a child in the form of shouting, threats, and degrading or humiliating criticism. Other types of emotional abuse are confinement, such as shutting a child in a dark closet, and social isolation, such as denying a child friends.

The most common form of child abuse is *neglect*. Physical neglect involves a parent's failure to provide adequate food, clothing, shelter, or medical care to a child. Emotional neglect occurs when a parent or caretaker fails to meet a child's basic needs for affection and comfort.

Many people have difficulty understanding why any person would hurt a child. The public often assumes that people who abuse their children suffer from mental disorders, but fewer than 10 percent of abusers have mental illnesses. Most abusers love their children but tend to have less patience and less mature personalities than other parents. These traits make it difficult to cope with the demands of their children and increase the likelihood of physical or emotional abuse.

However, there is no single explanation for child maltreatment. It may result from a complex combination of personal, social, and cultural factors. These may be grouped into four primary categories: (1) intergenerational transmission of violence, (2) social stress, (3) social isolation and low community involvement, and (4) family structure.



Intergenerational Transmission of Violence. Many children learn violent behavior from their parents and then grow up to abuse their own children. Thus, the abusive behavior is transmitted across generations. Studies show that some 30 percent of abused children become abusive parents. Children who experience abuse and violence may adopt this behavior as a model for their own parenting.

Social Stress. Stress brought on by a variety of social conditions raises the risk of child abuse within a family. These conditions include unemployment, illness, poor housing conditions, a larger-than-average family size, the presence of a new baby or a disabled person in the home, and the death of a family member. A large majority of reported cases of child abuse come from families living in poverty.

Social Isolation and Low Community Involvement. Parents and caretakers who abuse children tend to be socially isolated. Few violent parents belong to any community organizations, and most have little contact with friends or relatives.

Family Structure. Certain types of families have an increased risk of child abuse and neglect. For example, single parents are more likely to abuse their children than married parents. Families with chronic marital discord or spousal abuse have higher rates of child abuse than families without these problems. In addition, families in which either the husband or wife dominates in making important decisions have higher rates of child abuse than families in which parents share responsibility for these decisions.

After reading

- *Discuss working in groups:*
 - ▶ What behaviour is covered by the term *child abuse*?
 - ▶ Why do cultures around the world have different standards in deciding what constitutes child abuse?
 - ▶ Some children experience more than one form of abuse. What are these forms?
 - ▶ Factors causing child abuse may be grouped into some categories. What are they?
- *Express your view point on the following:*
 - ▶ The most common form of child abuse is neglect.
 - ▶ Most abusers love their children but tend to have less patience and less mature personalities than parents who never resort to abuse.
 - ▶ Many children learn violent behaviour from their parents.
- *Weigh the following statements and choose the ones you agree or disagree with:*
 - ▶ The abusive behaviour is transmitted across generations.
 - ▶ Child abuse is more common in wealthy families.
 - ▶ Child abuse results from complex combinations of personal, social and cultural factors.
- *Consider the following cross-cultural issues:*
 - ▶ Are there laws in your country's legislation to defend abused children? Do they work?
 - ▶ What laws would you suggest to help solve the problem?
- *Act as a social worker: make a guide for child's actions in case of emergency and possibility of abuse, e.g., a child should be prepared where to go, how to get there, etc.*
-  *Watch the film "Law and Order. Alan Sowyer's case". Discuss whether it is a case of abuse and violation of rights.*
-  *Make a search in the Internet on the problem of Cruelty to Children.*

5.2 Young Offenders Treatment

Before reading share your opinions with the class on the following:

- What are the most frequent crimes committed by minors?
- What types of institutions for young offenders are there?

While reading explain the meaning of the words **in bold**.

US Juvenile Courts

Juvenile Court is an authority with the disposition of legal actions involving children. Its jurisdiction covers a wide variety of acts by children (under the age of 18), as well as actions by adults that concern children.

Juvenile offenders cases usually come to the court's attention through **police apprehension** of a delinquent. At other times, a school official, parent, or guardian may refer a problem to the court. The court intake officer then evaluates the case and decides whether it should be ended without action, whether the child should be referred to a **counseling agency**, or whether the case should be heard in juvenile court. Depending on the nature of the charge, detention may be necessary. In most juvenile cases, the child admits to the **allegations** and a treatment program is ordered. When the child denies the allegations, however, **an adjudicatory hearing**, much like a criminal trial, is held. At this hearing, the child is represented by a lawyer and has many other defendant's rights. If the allegations are not proven, the case is dismissed; if they are proven, the judge may rule that the child is a delinquent or a status offender. A second hearing is then held to decide on the appropriate **disposition** or sentence. The most common disposition is probation. The court may order serious offenders to be sent to a **juvenile institution**. In certain instances, alternatives to juvenile court action may be desirable. Alternatives for minor offenses include informal assistance from school counselors, mental health clinics, and a variety of youth-service agencies. At the other extreme, the alternative for serious crimes and dangerous behaviour is trial in criminal court, where children who murder, rape, or commit other such acts can be sentenced to prison.

Teen Courts

Teen courts involve juveniles in the sentencing of other juveniles, in either a school or a community setting. Young people usually serve jurors and may also fill the roles of prosecuting attorney, judge, bailiff, or other officers of the court. Young offenders usually are referred to a teen court for sentencing, not

for a judgement of guilt or innocence. And many teen courts accept only **first-time offenders** who have committed relatively minor offences.

Teen courts sentences commonly include community service (1-200 hours), jury duty (up to 12 times), restitution, an apologies. Additional sentencing include counseling, educational workshops on substance of abuse or safe driving, essay writing, victim-awareness classes, **curfews**, drug testing, school attendance, and peer discussion groups.

Most teen courts are based in the juvenile justice system or in a community setting. The agencies most commonly operating or administrating teen court programs are juvenile courts and **private nonprofit organizations**. Next are law enforcement agencies and juvenile probation departments. Schools operate about 10% of teen courts, while a variety of other agencies operate the remainder of them.

Juveniles: Murder Tariffs **Court of Appeal, Criminal Division**

Pending the enactment of legislation under which **tariffs** for defendants under 18 years of age would be set by the trial judge in open court, the Home Secretary had proposed that the Lord Chief Justice review the tariffs of all those sentenced for murder as juveniles who were currently **detained at her Majesty's pleasure**.

The Home Secretary made a statement to Parliament that legislation was to be laid before Parliament which would provide for tariffs for defendants under 18 years of age to be set by the trial judge in open court as they were for adults subject to **discretionary life sentences**.

His Lordship would take as his starting point the existing approach adopted in the case of adults, sentenced to **a mandatory life sentence**, which meant the amount of time actually to be served by a person convicted of murder in order to meet the requirements of retribution and general deterrence, would be a period of 14 years before the possibility of release arose for consideration at all.

In all those cases the term might be increased or reduced to allow for aggravating and mitigating features.

The Home Secretary would set any new tariffs in accordance with the Lord Chief Justice's recommendation in both existing and fresh cases.

Before making recommendation to the Home Secretary, the Lord Chief Justice would invite written representations from the detainees' legal advisers and from the Director of Public Prosecutions, who could include representations on behalf of victims' families.

After reading

- State the main idea of each article.
- Compare the functions of Juvenile and Teen Court. Which of them in your opinion can be more efficient and fair?
- Comment on the proposal that the Home Secretary made to His Lordship.
- What recommendations concerning juvenile tariffs would you make?
- Write a paragraph about juvenile offenders treatment.

5.3 Violence at School

Before reading discuss why the problem of youth violence in American schools is so acute nowadays.

While reading try to give your explanation to the words and expressions in **bold**.

A middle school teacher and her former **aide** are suing the Clover Park School District for failing to protect them from violent the **special-education student**.

The lawsuit, filed in Pierce County Superior Court, contends the district required the two women to work with a boy, administrators knew to be violent. It seeks unspecified damages. The school district should have placed the boy in a **more restrictive environment**.

“My question is, where?” said Bill Coats, an attorney who represents the district. “If they’re not going to be in the classroom ... where should they be?”


According to court documents in the suit, the student – now 15, Hodgins, the teachers’ attorney said – hurt both women on several occasions. “Very frequently this student would attack people and it would take one or more adults **to restrain** him,” Hodgins said. “And the teachers on countless occasions told the administration of the school that this was a problem and **it was out of hand**, and something needed to be done. And almost nothing was done about it.”

Washington Education Association spokesman Rich Wood said he doesn’t think there’s been a significant increase in violence toward teachers or other school workers. “But we think here’s an increased awareness.” Statewide,

education was among the top 10 employment arenas for workers' compensation claims from 1992 to 1997.

by Pierce County WA, USA, 1999

After reading

- *Discuss the answers to the following questions:*
 - ▶ What are the teachers suing the Clover Park School District for?
 - ▶ What arguments are put forward by the Education Association and the school authority in their defense?
 - *Comment on the following statements from the article:*
 - ▶ The boy should have been placed in a more restrictive environment.
 - ▶ "If they're not going to be in the classroom ... where should they be?"
 - *According to the article, there exist two polar views on the problem of pupils' violence - what are they?*
 - *What is your personal understanding of the problem? Give your grounds.*
 - *In groups work out suggestions for solving the problem. Make a list of measures that might prevent students' violence.*
-  *Watch the TV show "Judge Judy. Bad, Bad Boys". Discuss the problem as shown in the show.*

5.4 Boy, 15, Dies after Hanging in Police Cell

Before reading *try to predict what might be discussed in the article.*

While reading *pick up the bulk of words and word combinations related to the problem under discussion.*

A fresh controversy was looming over the care of juveniles in custody when a 15-year-old boy died after being found unconscious in a police cell.

The teenager was rumoured to have tried to hang himself in the cell at the police station. The boy had been arrested on suspicion of burglary and was

found unconscious by custody officers. He was put on a life support system but died in some hours.

The death will be viewed as particularly controversial because juveniles are not supposed to be held in police cells under any circumstances. “Most police stations would have a detention room for those juveniles who need to be detained. The rooms are much more spacious and less intimidating than cells and, crucially, nearer the custody officer. But juveniles are sometimes put into cells because there is nowhere else to put them”, Mark Grindrod, juvenile project manager for the Howard League for Penal Reform said. “If you have juveniles in custody you ought to have particular concerns about their vulnerability, because they are particularly prone to carrying out acts which perhaps they do not fully think through. That’s why we have such specific and stringent rules about interviewing and detaining juveniles, both in police stations or prisons.” A juvenile should not be held in a cell before being interviewed and a decision over whether to charge him or her is reached. Once a decision to charge has been made, police can bail the young person into the care of social services, or send him or her home, pending a court appearance.

After reading

- *Which of these statements do you agree with?*
 - ▶ Juveniles are not supposed to be held in police cells under any circumstances.
 - ▶ Juveniles are particularly prone to carrying out acts which perhaps they do not fully think through.
 - ▶ A juvenile should not be held in a cell before being interviewed and a decision over whether to charge him or her is reached.
- *Comment on the following:*
 - ▶ Once a decision to charge a juvenile has been made the police can
 - a) bail the young person into the care of social services
 - b) send him or her home, pending a court appearance
 - c) put him or her in a cell.
 - ▶ “If you have juveniles in custody you ought to have particular concerns about their vulnerability.”
- *Discuss the possibility of filing a lawsuit by the boy’s parents.*
- *Role play the proceeding.*

5.5 Kids With No Hope, No Fear, No Rules, And No Life Expectancy...

Before reading suggest some ideas this article could be about.

While reading identify the problems, the author tries to draw the reader's attention to.

There is a bitter battle over how to combat the nation's fastest-growing crime problem - juvenile offenders. While overall crime statistics in America's largest cities has dropped, there is one category where it has skyrocketed. That category is homicides committed by youths under the age of 17.

Violence (i.e. aggravated assaults) committed with guns by youths has also increased at roughly the same pace as homicides. After years of statistical decline, drug use by teens is also on the rise. None of these statistics would appear to bode well for future.

It now seems that everyday we are hearing about horrendous violent crimes being committed by juveniles. The most famous of late was the 6-year-old in northern California who almost beat to death a small baby. The baby was just released from the hospital on Thursday and has suffered brain damage from the attack by the 6-year-old.

There is also the case of the 15-year-old pregnant girl who was shot to death by another student in St. Louis. In Miami, two 16-year-old males have been charged with the murder of a Dutch woman tourist who just happened to end up in the wrong neighborhood. A 15-year-old New York boy tried to steal a pair of earrings from a woman. During the attack, the young woman fell to her death under a New York subway train.

In St. Louis, one 9-year-old and two 11-year-old males were charged with the rape of an 8-year-old female in an overgrown field. Where are they learning this stuff? This has to be learned behavior.

There seems to be growing awareness now of this juvenile crime problem. Several experts, as well as this publication, have been trying very hard to get the word out. People who have become victims of these young felons are angry and are calling for changes to be made in the juvenile justice system.

It has been a long-standing belief in the United States that juveniles who kill, rape and rob, be treated differently than adult offenders. But this may soon change. In 1899, juvenile courts were established to help protect "juvenile delinquents." But it seems that today, the reasoning for the protection of the youths in the criminal justice system may be outdated and changes need to be made to accommodate these "14-year-old harden felons."

Many critics, today, say that in reality too many hard-core juvenile offenders are arrested, held, and released time-after-time in a process that is called a revolving door. It seems to only come to an end when a truly heinous crime is committed.

by Steve Macko, ENN Editor the Statistics

After reading

- *Juvenile crime has skyrocketed in the USA. Does the article suggest any solutions to this problem? In groups discuss the problem of growing juvenile delinquency and work out the measures to combat it.*
- *Comment on the cases of crimes committed by young offenders. What punishment do they deserve?*
- *How do you understand the process that is called “a revolving door”? Is the situation in your country similar to the one described in the article?*



Watch an episode from the film “Green Street Hooligans”. Discuss the problem of “street hooliganism”.

5.6 Letters From Behind Bars

Before reading *try to imagine that you happened to read the letters written by juvenile offenders. What thoughts could they possibly express in them?*

While reading *find out what kind of people these youth offenders are.*

Life as a Juvenile Ward

You miss being free more than anything... What you hate is the doors being locked at night. When you hear the key turning, it really does something to you... You hate being locked in your room. Everybody hates being locked in. Being able to take a walk - even just a little walk - whenever you feel like it. Some days I feel like I'm going to jump out of my skin if I can't go off by myself from everyone in the cottage, and just think by myself. You miss your freedom.

Young Woman in Confinement

How to Survive

When you get there, you go to your own race and they run down what you have to do. If someone disrespects you, badmouths you or your family or your city - you either fight or flee. Fighting gains you respect. If you run, you're a "lame" or a "lop" or a "leva". If you give in to pressure - and the older boys pressure you all the time - you're a pressure case, a "P.C". And if you're weak, they could rape you.

CYA Ward

On Being Incarcerated for the Third Time

There were a lot of weak people in there, and I had finally learned how to use my mind to manipulate. Plus, I could use a knife; most people don't want to die, but I didn't care. In DeWitt Nelson, I was the assaulter, I took what I wanted: radios, cigarettes, commissary, clothes, sex. I felt powerful. What I said was the word. People did what I wanted. They were scared of me. CYA had helped me get worse.

Former CYA Ward

After reading

- *Discuss how similar and different these three young people are. What sad and tragic conclusions they arrive at?*
- *Say what feeling you have towards these young people.*
- *Can they be called "Kids With No Hope, No Fear, No Rules, And No Life Expectancy?"*
- *In groups discuss and write letters of response to these young people.*

5.7 A Safety Net for Damaged Youth

"Young offenders seemingly destined for a life in prison have new hope."

Heather Mills reports

Before reading *try to predict what the article could be about.*

While reading *find the information on a) how YAR was created, b) YAR goals, c) strategy, d) results and achievements.*

Paul was kicked out of school after he had set fire to it. He had a history of street robbery and assault. He killed cats, dogs and rabbits just for the hell of it. His hard face made him look much older than his 15 years.

Susan, tiny and blonde, was hardly the picture of a violent runaway. But she, too, had a history of brawling, drinking and stealing.

When family, teachers, social workers and probation officers had all but given up on them, the pair looked destined for life in and out of detention centers, prisons, even psychiatric care.

But now there is a real hope, thanks to a radical programme aimed at the most damaged and damaging of our young people. The idea of *Youth at Risk (YAR)* was imported from America ten years ago by Ben Rose – then an idealistic trainee of 26, now a partner in Hickman & Rose, a leading human rights and criminal defence practice.

Each year, from Belfast to Liverpool and London, YAR runs ten or so intensive projects for the most “at risk” youngsters such as Paul and Susan. It is about to launch similar schemes in Australia and the Netherlands.

A unique feature of YAR – which has at its core the belief that it takes a whole community to raise a child – is that it trains volunteers from the same backgrounds as the children, as well as those from the world of business and industry. Young people and volunteers alike go through the same nine-month programme. It is kick-started by a residential week of intensive, 16-hour days sessions, delving deep into the past of those young people and dismantling their antisocial behaviour.

But YAR is not about giving people excuses. It is about condemning the wrongs done to them, teaching them to consign those events to history, showing them how their conduct affects them and others, and giving them the skills to break out of that desperate cycle.

A handful find the programme too much and drop out. But for most, the change is astonishing. At the end of the week, each youth is assigned an adult volunteer as a “committed partner” who must stick with him or her until the end of the programme.

It seems to work. Of the hundreds of people who have passed through the programme, about 60% achieve their three goals: an end to offending; forming a better relationship with their family; and getting back into school, training, college or work.

Working in partnership with business, probation services, local government and community groups, YAR has grown beyond Rose’s first dream. “People rediscover community, connect to each other and discover their power to make a difference,” says Rose.

After reading

- *Explain why young offenders like Paul and Susan seem destined for a life in prison.*
- *Using the points you were given in pre-reading task as an outline, discuss the information you have learnt about YAR.*
- *Affirm or disprove the following:*
 - ▶ When the society gives up on children, they have nothing to hope for but turn to crime.
 - ▶ The harsher the programme aimed at young offenders, the better its results.
 - ▶ The success of the YAT lies in the fact that it is based on community involvement.
- *In groups work out a scheme for a programme aimed at most damaged and damaging children in your country. Name the programme and present it to the class.*



For more detailed information on the topic look up in Multimedia Course, part II and in Reader Section.

Activity 6: Legal Writing

6.1 Mastering Translation Skills

- a) Translate the article from Russian into English, then compare your translation with the English text.*

«МЕЖДУНАРОДНАЯ АМНИСТИЯ»
ПРЕСС-РЕЛИЗ
15 сентября 2004 г.

На пути к искоренению смертной казни несовершеннолетних
Верховный суд США получил шанс предать истории смертную казнь несовершеннолетних преступников и

“AMNESTY
INTERNATIONAL”

Stop child executions!

On 1 March 2005 the US Supreme Court outlawed the execution of child offenders.

поставить Соединённые Штаты в один ряд с подавляющим большинством стран мира, которые уже сделали этот шаг, - заявила «Международная Амнистия», опубликовав новый доклад по данной проблеме.

«Подобные казни нарушают международное право. Международный консенсус по запрету казни людей за преступления, совершённые ими в детском возрасте, отражает распространённое признание того факта, что молодые люди способны взрослеть и исправляться», - заявила «Международная Амнистия».

С начала 2003 года в Китае, Иране и США казнено шестеро человек, осуждённых за преступления, которые они совершили, будучи несовершеннолетними. Другие осуждённые несовершеннолетние преступники ожидают исполнения приговора в Пакистане, на Филиппинах и в Судане.

«Нельзя сбрасывать со счетов жизнь ребёнка, независимо от совершённого им или ею. Следует руководствоваться принципом предоставления несовершеннолетнему преступнику максимальных шансов на благополучное возвращение, рано или поздно, в общество. Смертная казнь в корне противоречит этому принципу»

The use of the death penalty against child offenders – people under 18 at the time of the crime – is clearly prohibited under international law.

The international consensus against putting child offenders to death for their crimes reflects the widespread recognition of the capacity of young people for growth and change.

Since January 1990 Amnesty International has documented 39 executions of child offenders in eight countries– the Democratic Republic of Congo, Iran, Nigeria, Pakistan, Saudi Arabia, the USA, China and Yemen. The USA carried out 19 executions – more than any other country.

The life of a child offender should never be written off, whatever he or she has done. The guiding principle must be to maximize the child offender's potential for eventual successful reintegration into society. Execution is the ultimate denial of this principle.

b) *Translate the article into English.*

Почему бунтуют дети?

Если родители уделяют много внимания негативному поведению, то дети продолжают вести себя негативно. Эта негативная цепочка взаимоотношений будет существовать до тех пор, пока вы не измените своей тактики. Если вы станете уделять больше внимания положительным моментам в поведении ребенка, он будет стараться вести себя позитивно.

Без наказаний не обойтись, но они по своей силе должны соответствовать возможностям ребенка: ребенок не должен «сломаться» под тяжелой ношей воспитательных мер. Альтернатива наказанию – прощение, так как, прощая, вы ясно даете знать ребенку, что ошибаться нормально, затем нужно забыть об этом и двигаться дальше.

Постарайтесь почаще «ловить» ребенка на положительных моментах его поведения. Ваша реакция на его ошибки должна колебаться от безразличия до скуки, а вот по поводу успешно выполненных задач следует проявлять воодушевление и одобрение.

АИФ № 23, 2005

6.2 Creative Writing

Write an essay on the topic “The Law and Young People.” Use the following quotations.

- There is no single cause of delinquency, but certainly one cause is a feeling of insecurity on the part of young offenders. Among the factors contributing to insecurity are poverty, liquor in the home, father coming home drunk, strained relationships between parents, often accompanied by harsh language and quarrels in the presence of the children - all these things generate fear and help to lay the foundations for later crime.

Billy Graham

- Children might or might not be a blessing, but to create them and then fail them was surely damnation.

Lois McMaster Bujold, “Barrayar”, 1991

UNIT III

FAIR TRIAL

Activity 1: Discovering Connections

A Due Process of Law is administered through courts of justice in accordance with established and sanctioned legal principles and procedures, and with safeguards for the protection of individual rights.

1.1 *Brainstorm the following:*

- Fair Trial – myth or reality?
- Independent judiciary as an indispensable feature of democracy.
- The interrelations between moral and legal issues involved in administering justice.

1.2 *Divide into groups of three. Together with your group members decide which of the following factors should be present to guarantee **Fair Trial**? Put them in the order of preference, add your ideas, if any.*

- ★ strict / merciful / flexible laws
- ★ the adversarial process
- ★ jury trial
- ★ death penalty
- ★ proper investigation
- ★ the possibility of appeal
- ★ the right to defence

Activity 2: Vocabulary Focus

2.1 a) *Try to identify the meaning of the following set-expressions, use the prompts in the box below.*

1. Kangaroo court	2. Judgement day	3. Jackleg lawyer	4. Trial at nisi prius	5. Due process	6. Judgement by default
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- a) Hearing of some civil cases by the jury trial
- b) A sham legal proceeding or court, often judged subjectively through the speaker's perspective
- c) A lawyer with a doubtful reputation
- d) A court decision in favour of the plaintiff
- e) The final day of a court
- f) A fair trial

b) *Study the above-mentioned expressions in use.*

“Do you know that...”

A **kangaroo court** is (a) a mock court set up without legal basis, such as a fraternity, sports team or army squad might set up to punish minor violations of organizational decorum; (b) slang for a court of law in which the violations of procedure, precedents, and due process are so gross that fundamental justice is denied (also known as a Kangaroo trial or a Drumhead trial); (c) a term that may be used to describe the dispute resolution mechanism used by prison inmates to resolve disputes within the prison based upon the pecking order of the prisoners.

Judgement day means (a) doomsday or the day of doom (religious); and also (b) the day when the final decision by a court in a lawsuit is made.

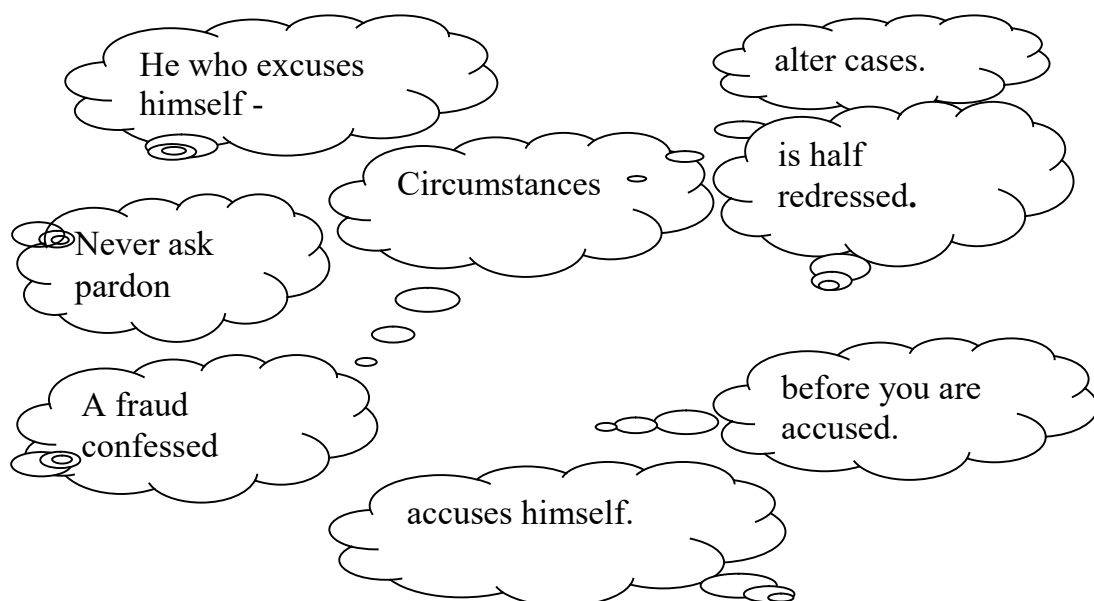
Jackleg lawyer is a lawyer who cannot be trusted as having a reputation of being either incompetent and unskilled or dishonest and unscrupulous.

Nisi prius is Latin for “unless before,” the words introducing a clause in an English writ commanding a sheriff to provide a jury at the Court of Westminster on a certain day unless the judges come to the county. **Trial at nisi prius** is a court that tries a civil case before a jury and a single judge.

Due process is a course of formal proceedings carried out regularly, fairly, and in accordance with established rules and principles.

If a defendant in a lawsuit fails to respond to a complaint in the time set by law (commonly 20 or 30 days), then the plaintiff (suer) can request that the default (failure) be entered into the court record by the clerk, which gives the plaintiff the right to get a **default judgement**.

2.2 *Match the two halves of the sayings. What do they mean? Are there similar sayings in Russian?*



2.2.1 *Which sayings do you find most topical nowadays? Think of as many arguments as you can **for** and **against** each idea.*

2.3 Find the logical ending for each of the sentences beginning on the left. Check the meanings of the verbs and phrases in the box in a dictionary before you start.

to beg the question, to beat about the bush, to make one's point, to bail sb out, to get to the heart of the matter, to have one's back to the wall, to appear for, to file a motion

1. This was the first case in which	a) "he would clear this courtroom".
2. He had been working on that case for several months	b) which was out of place in court and could not last long.
3. It was a really challenging case	c) John <i>appeared for the defendant</i> and <i>filed a motion</i> to postpone a trial to a later date.
4. To his horror when he entered the courtroom,	d) because John had only one key witness whose testimony was sufficient ground for his chosen line of defense.
5. Hoping that the witness would appear in a minute, John had no choice but to resort to <i>beating about the bush</i>	e) and <i>got to the heart of the matter</i> .
6. Predictably enough the judge asked him <i>to make his point</i> or	f) his witness was nowhere to be found.
7. John knew that without the testimony of the missing witness his statements would be nothing else but	g) " <i>to have your back to the wall</i> ".
8. After the trial, he said, he realized the exact meaning of the saying	h) <i>begging the question</i> .

2.3.1 Speculate on the following:

1. Do you ever resort to *beating about the bush*? When?
2. Have you ever *had your back to the wall*? On what occasion? What or who *bailed you out*?
3. What do you usually do when someone starts *begging the question*?

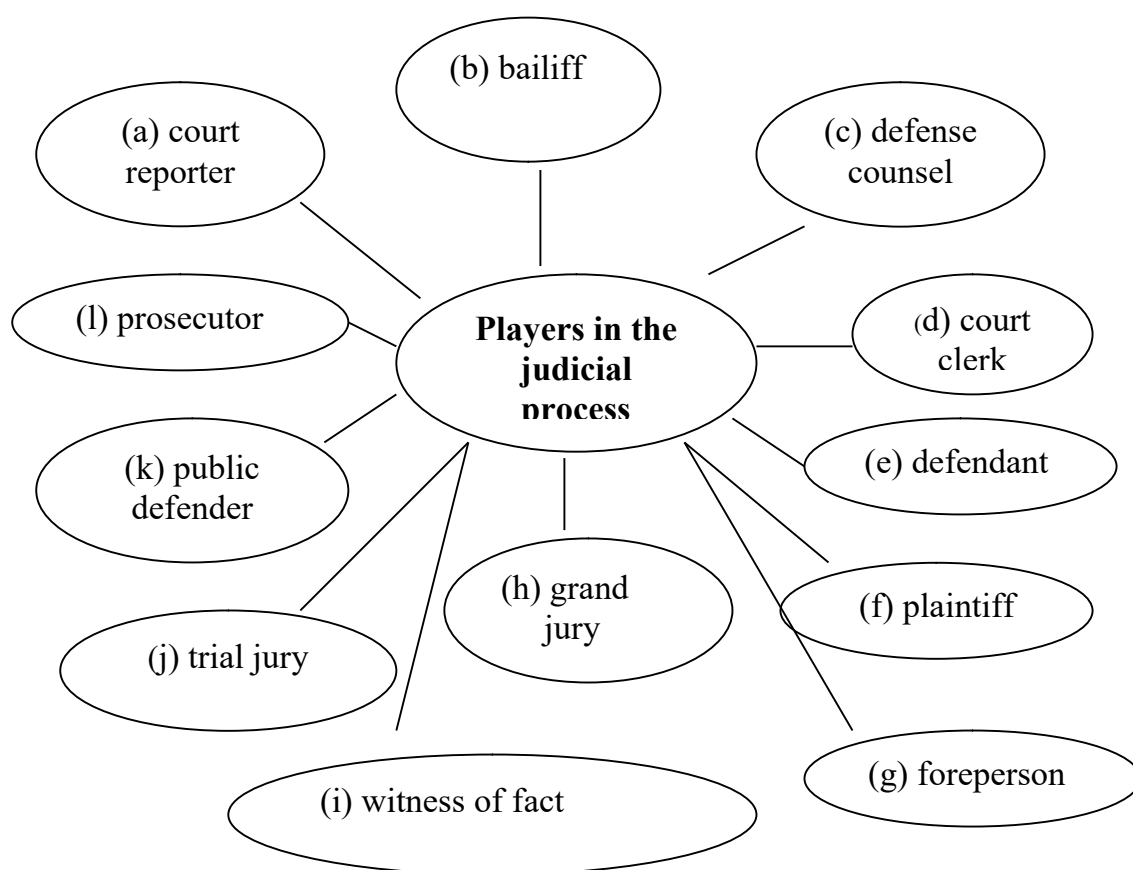
4. Do you always find it easy *to make your point* in a discussion?
5. Are you the kind of person *to carry your point* even if everyone else in the group disagrees with you?

2.3.2 Choose three or four phrasal verbs or phrases from the box in 2.3 and build them into a short story. When you have finished you can repeat the activity for a different group of verbs or phrases.



You can find more idioms connected with the topic under discussion in *Multimedia English Course, part III*.

2.4 Here is a network representing the players in a typical judicial process. Identify them as court participants of a civil trial, a criminal trial or both. If you are not sure about the definitions, proceed to activity 2.4.2.



2.4.1 Complete the spaces in the sentences below with suitable words, some of which are found in the network.

Model: The jury returns a verdict of guilty or not guilty.

1. ____ presides over the ____, instructs the jury on the ____ and hands down a ____.
2. ____ initiates the ____.
3. ____ brings the government's case against a ____ and asks the ____ to convict that person.
4. ____ is sued in a ____ and accused of a crime in a ____.
5. ____ testifies, either orally or in writing, before a ____.
6. ____ is engaged in the _____. Both the plaintiff and the defendant have one.
7. ____ returns a ____ of guilty or not guilty.

2.4.2 Match the words in column **B** with their definitions in **A**.

A	B
1. A moderator of the jury deliberations who speaks in the courtroom for the entire jury	a) A court clerk
2. A court-appointed counsel for a criminal defendant	b) A public defender
3. A group of people (traditionally 23) who decide whether or not there is enough evidence to formally accuse someone of a crime	c) A court reporter
4. A group of 6 to 12 people who listen to the testimony from both parties and decide the verdict of a case	d) A grand jury
5. A person who helps with administrative duties and stores the physical exhibits introduced as evidence at the trial	e) A trial jury
6. A person who types every word said during the trial; the typewritten document being a permanent record of the trial	f) A foreperson
7. A police officer who maintains order in the court	g) A bailiff

2.4.3 Now choose court participants from the table above and write sentences with gaps similar to those in activity 2.4.1. Let your partner fill in the gaps with suitable words and phrases.

2.5 All court participants perform clearly outlined functions, the result of which is reflected in a number of official legal documents. Do the matching of the participants with the corresponding documents below.

Information, indictment, deposition, verdict, judgement, affidavit, injunction, pleading, motion

- a) A GRAND JURY'S formal written accusation that a person committed a crime. It is issued for certain serious criminal offences.
- b) A written accusation that a person committed a crime. It differs from (a) because it is issued by a government official (usually the Prosecutor), rather than by a grand jury.
- c) A written statement of facts made voluntarily and confirmed by an oath before a NOTARY PUBLIC or someone authorized to take oaths. It is used as proof for simple matters that do not require the live testimony of WITNESSES.
- d) The testimony of a WITNESS obtained through an oral interview or written questions (interrogatories) before a COURT REPORTER in a place away from the courtroom before trial. Also a process of obtaining such testimony.
- e) A document filed by each PARTY at the beginning of a civil lawsuit, stating each side's descriptions of the controversy and what each party thinks the court should do about it.
- f) A COURT order prohibiting a person from doing a specific act or commanding the person to discontinue acting in a certain way.

- g) A decision that is made by a TRIAL JURY in a court of law, stating if somebody is considered guilty/liable or not.
- h) The final decision of a COURT resolving the dispute and determining the rights of the parties.
- i) A formal request in the form of a written petition made by a COUNSEL to a JUDGE to get an order or judgement.

2.6 *Here is a description of a typical civil lawsuit. Choose the most suitable word for each space in the table below. Most of the words you need can be found in the previous tasks.*

Stages of a Civil Lawsuit

The first step in many civil lawsuits is for the lawyer to send a private “demand letter” outlining the victim's legal (1) ... and harm suffered. The letter usually states that the victim intends to (2) ... a lawsuit unless the parties can reach a private (3) The demand letter may lead to resolution of the case without (4) ... a formal lawsuit.

If the case is not (5) ... by a demand letter, or if one is not sent, a “complaint” is filed. The complaint is a written description of the victim's legal (1) ... (6) ... the defendant(s).

Once the lawsuit has begun, both sides may require (7) ... of anyone with relevant information, including the victim and the offender. They are recorded, and usually take place in an office (8) ... a judge.

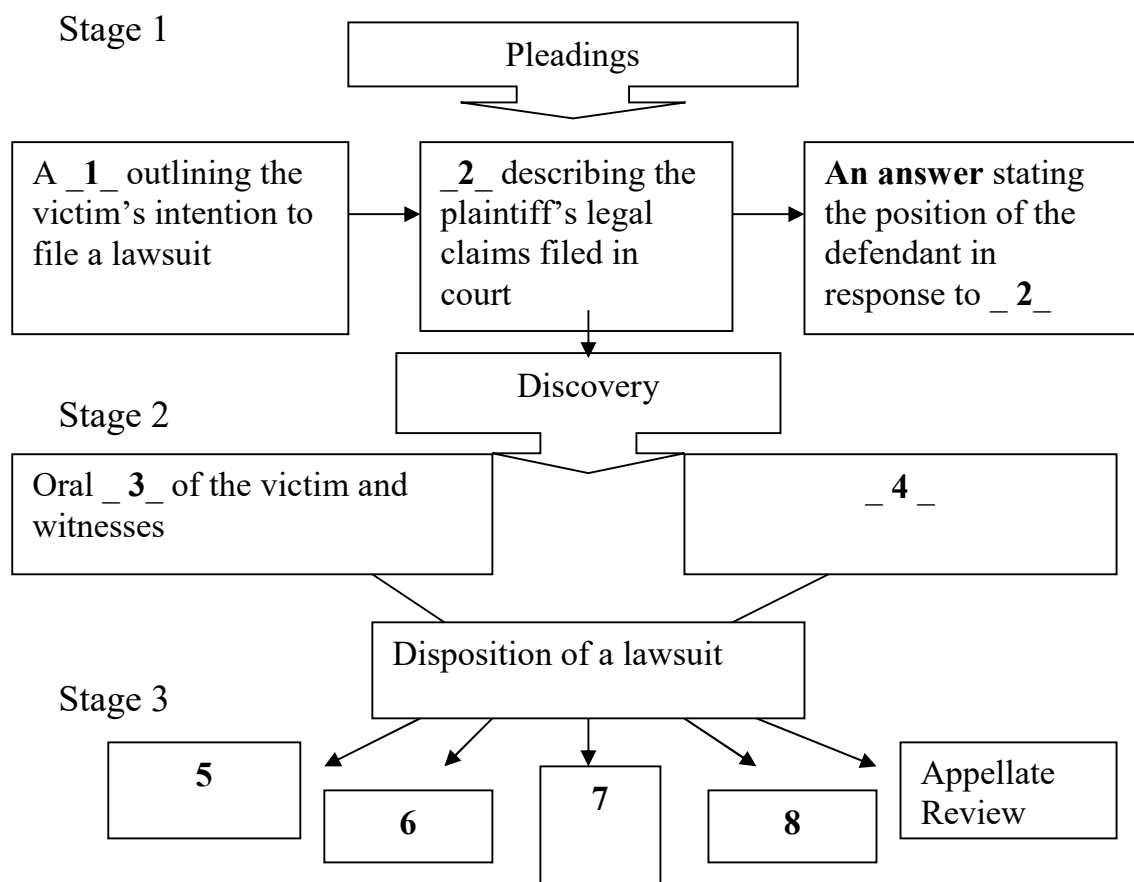
Either side may also require the other side to respond to written questions (known as (9) ... or provide copies of relevant documents. (7) ... and (9) ... are often referred to as “discovery.”

A civil lawsuit will end in one of several ways. Most cases end in a (3) ... - an agreement by the victim to (10) ... the case in exchange for financial compensation. An increasingly popular means to resolve a case is through mediation or arbitration. Some cases are dismissed outright by the court upon written requests of lawyers known as (11) ... because of technical defenses, such as the lawsuit being filed too late, or insufficient evidence. If the lawsuit is not resolved, it goes to trial before a jury or a judge. In a civil case, unlike a criminal case, either side may appeal the verdict and the amount of damages.

1	a. requests	b. claims	c. reports	d. judgements
2	a. contain	b. achieve	c. lodge	d. lay
3	a. settlement	b. deal	c. bargain	d. contract
4	a. reaching	b. making	c. doing	d. filing
5	a. dissolved	b. resolved	c. likely	d. off
6	a. on	b. against	c. to	d. before
7	a. indictments	b. verdicts	c. depositions	d. injunctions
8	a. with	b. without	c. to	d. before
9	a. information	b. oaths	c. motions	d. interrogatories
10	a. dismiss	b. file	c. reject	d. accept
11	a. affidavits	b. motions	c. testimonies	d. cross-examinations

2.6.1 The following graph represents the basic stages of a typical civil lawsuit. Use the text to find a suitable word for each of the spaces.

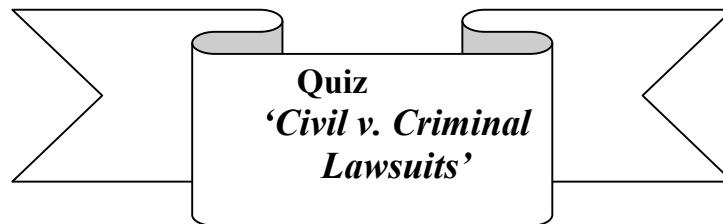
Basic Stages of a Civil Lawsuit



2.6.2 Below are the basic stages of a criminal lawsuit. Put them in the correct order making a diagram similar to the one in 2.6.1.

Sentence, Discovery and Motions, Initiation of Prosecution,
Disposition, Arraignment and Bail, Appeals, Punishment

2.7 How many questions in the quiz '**Civil v. Criminal Lawsuits**' can you answer without using your dictionary?



1. At the pleading stage the statement of claim or charge is more precise and detailed:
A in a criminal case **B** in a civil case
2. At the discovery stage the ability of each side – prosecution and defense – to gather information to support their position, is more limited:
A in a criminal case **B** in a civil case
3. The burden of proof is lower in a ____ trial where a defendant must be proved guilty not beyond a reasonable doubt but only by the greater weight of evidence, i.e. on the balance of probabilities.
A criminal **B** civil
4. A defendant in a ____ lawsuit is accorded more procedural rights and safeguards.
A criminal **B** civil
5. If a defendant is acquitted, he/she can stand trial twice for the same offence:
A in a criminal trial **B** in a civil trial
C in both of these **D** in neither of these

6. In jurisdictions with speedy trial laws, ____ cases may be tried more promptly.

A criminal

B civil

7. Majority jury verdicts are allowed in more ____ trials.

A criminal

B civil

Activity 3: Legally Speaking

3.1 *Explain the meaning of the following expressions. Make up short dialogues with them.*

1 Be at law with sb, **2** Go into court, **3** Hold court, **4** Out of court, **5** Settle out of court, **6** Fix a jury, **7** Hang the jury, **8** Hung jury

a Подать жалобу, **b** Не подлежащий обсуждению, бесспорный; **c** Помешать присяжным вынести приговор; **d** Быть в тяжбе с кем-то, судиться; **e** Вершить суд; **f** Состав присяжных не пришедших к единому мнению **g** Не доводить до суда; **h** Развращать, подкупать присяжных

3.2 *Match the following expressions with the short articles below. What do they mean by saying ...?*

1 Habeas corpus

2 Miranda rights

3 Double jeopardy

4 Presumption of innocence

5 Taking the Fifth

- a) Prohibition to place someone on trial a second time for an offense for which he/she has been previously acquitted, even when new incriminating evidence has been unearthed. However, in rare instances a person may be tried for a different crime based on some of the same facts which were used to try him/her when he/she was acquitted.
- b) The requirement that prior to the time of arrest and any interrogation of a person suspected of a crime, he/she must be told that he/she has: the right to remain silent, the right to legal counsel, and the right to be told that anything he/she says can be used in court against him/her.
- c) The refusal to testify on the ground that the testimony might tend to incriminate the witness in a crime, based on the Fifth Amendment to the Constitution, which provides that “No person...shall be compelled to be a witness against himself.”
- d) Latin for “you have the body.” It is a writ (court order) which directs the law enforcement officials (prison administrators, police or sheriff) who have custody of a prisoner to appear in court with the prisoner to help the judge determine whether the prisoner is lawfully in prison or jail. This writ is a protection against illegal confinement, such as holding a person without charges. Historically called “the great writ,” the renowned scholar of the Common Law, William Blackstone, called it the “most celebrated writ in English law.”
- e) A fundamental protection for a person accused of a crime. A presumption in the favour of the defendant in a criminal action imposing on the prosecution the burden of proving guilt beyond a reasonable doubt.

3.3 “To Quote or not to Quote?”

Quotations, proverbs, clichés, or any short sayings expressing a well-known truth can often be used to effectively crystallize the defender's point during the trial. If a quotation truly has meaning to a speaker, people will believe it.

a) Choose the quotations that target the following legal notions and use them in your short speeches.

evidence; death penalty; illegal, socially dangerous act; data; mercy; incompetence; obligation

- Crime is the antisocial form of the struggle for existence.

Enrico Ferri

- Is there not blood enough upon your penal code!

Lord Byron

- Let us have faith that right makes right, and in that faith, let us to the end dare do our duty as we understand it.

Abraham Lincoln

- Facts are stubborn things.

Alain Rene Le Sage

- A fact in itself is nothing. It is valuable only for the idea attached to it, or for the proof which it furnishes.

Claude Bernard

- Ignorance never settles a question.

Benjamin Disraeli

- Civilization is just a slow process of learning to be kind.

Charles L. Lucas

b) Explain the following proverbs which belong to different nations.

- The more laws, the more offenders.

English proverb

- The best law leaves the least discretion to the judge.

Latin proverb

- Only painters and lawyers can change black to white.

Japanese proverb

- Doctors purge the body, preachers the conscience, lawyers the purse.

German proverb

- Rather suffer an injustice than commit one.

Yiddish proverb

- One hour of justice is worth a hundred of prayer.

Arab proverb

3.4 *In the following story, there are six characters.*

a) Using the list below, work individually to rank the characters (from 1 to 6 with 1 being the most and 6 the least responsible) in the order of their moral responsibility for Jean's death.

b) Now, work with other members of your group and decide on the ranking of the six characters as a group. You must reach a unanimous decision.

c) Explain the group answers to the class and try to reach a class consensus.

The Characters:

Bar Owner, Jack, Man Leaving the Bar, Carl, Jean, Gail

The Story:

Around 5pm one evening, a man and his wife entered the Bluebird Bar. The man, Jack, ordered a whiskey for himself and a cola for his wife, Gail. Jack continued to order the same drinks about every half an hour.

At 11pm the bar owner refused to serve Jack any more drinks because he was obviously extremely intoxicated and bothering other customers. Gail was used to Jack's behavior and never asked her husband to quit drinking.

"Are you driving him home or should I call a taxi?" the bar owner asked Gail. Jack shouted, "Get out of my face! I'm driving home and neither of you can stop me!" Jack then shoved the owner aside and walked out the door. The owner just shrugged his shoulders and walked off. Gail went to the pay phone in the corner to call her sister for a ride.

As Jack left the bar, a man walking by the bar shouted to him, “Hey Buddy, call a taxi!” When Jack drove off, the man simply shook his head and walked down the street.

Meanwhile, Jean and Carl were having a lovers' quarrel on the next corner. The quarrel soon escalated into a major fight, and Carl struck Jean, saying, “Don't ever tell me not to touch you again. I'll show you who's boss here.” At that point, Jean, crying hysterically and paying no attention at all to the traffic, ran into the street directly in front of Jack's car. Jack was not able to stop in time.

Activity 4: Legal Reading and Discussion

4.1 *Discuss in groups what **an adversarial process** is. Give an explanation how it works in judicature.*

4.2 *While reading make notes under the following headings:*

★ *definition* ★ *the core issues* ★ *the moral aspect*

Adversarial process is one that sets up a specific and focused conflict, typically with rewards for prevailing.

An example of it is the use of a criminal or civil court to decide the social attitude to an alleged wrong-doing of a defendant, and penalties to be assessed, and restitution to be awarded to their deemed victim. This is adversarial as the opposing attorneys are competing to convince the judge to include or exclude evidence or witnesses, and competing to convince the judge or jury of the guilt or innocence of the defendant, and severity of the impact of the actions (if guilty) on the plaintiff or victim. Lawyers must be held to rather specific ethical codes in order to ensure that their tactics do not cause an undue burden on larger society, e.g. freeing defendants who have admitted that they are not only guilty but intend to offend again. Lawyers differ on whether the process should be seen as strictly adversarial, in order to ensure they retain the trust of clients and the overall process retains the trust of society, or whether the ethics of the larger society should play a role in their behavior.

Let us consider the following example: A drink-drive case was dismissed because of a fatal flaw in the prosecution. How, some people ask, can we 'let off' a drink-driver just because the police officer has left a piece of paper out of the file? The answer is that in an adversarial system the defendant does not have to prove anything, and it is for the prosecution to prove their case beyond reasonable doubt. It is not the job of a magistrate or a judge to help the prosecution to get over the weakness of their case, even when as in this instance it was a minor clerical error.

It may sound a little pompous in the context of a simple drink-drive case, but an independent judiciary is the citizen's last defence against oppression and tyranny. Sometimes that means that society has to accept that a criminal will go unpunished because it is not acceptable for police and prosecutors to use oppressive means to obtain evidence.

Legal systems based on the common law tradition, such as those in England, Canada, and the United States, are typically contrasted with civil law systems, which are found in many Western European countries, much of Latin America and Africa, and parts of Asia. Civil law and common law systems have entirely different approaches to criminal procedure. Most countries with civil law systems use what is known as *the inquisitorial system*. Common law countries use what is called *the adversarial system*.

In a common law system, an adversarial approach is used to investigate and adjudicate guilt or innocence. The adversarial system assumes that truth - that is, an accurate verdict - is most likely to result from the open competition between the prosecution and the defense. Primary responsibility for the presentation of evidence and legal arguments lies with the opposing parties, not with a judge. Each side, acting in its self-interest, is expected to present facts and interpretations of the law in a way most favorable to its interests. The approach presumes that the accused is innocent, and the burden of proving guilt rests with the prosecution. Through counterargument and cross-examination, each side is expected to test the truthfulness, relevancy, and sufficiency of the opponent's evidence and arguments.

The adversarial system places decision-making authority in the hands of neutral decision makers. The judge ascertains the applicable law and the jury determines the facts. The system emphasizes procedural rules designed to ensure that the contest between the parties is a fair fight. Critics of the adversarial approach argue that the pursuit of winning often overshadows the search for truth. Furthermore, inequalities between the parties in resources and in the abilities of the attorneys may distort the outcome of the adversarial contest.

4.3

- *Using your notes discuss the basic points the adversarial system assumes in criminal and civil procedure.*
- *Compare and contrast the inquisitorial and adversarial systems of civil and common-law countries.*
- *In two teams debate strong and weak points of the adversarial system.*



Watch the film “Murder between Friends”. Express your opinion on the first trial. Is justice always done in an adversarial process?

Activity 5: Exploring Texts

5.1 When Litigants and the Law Fall Out

Before reading *suggest the ideas which could be discussed in the article under this title.*

While reading *find examples of how simple legal disputes can escalate leading to a loss of faith in the justice system.*

When people go to law, they hope for a fair result. And they often obtain it – at a price. But if they lose, they may look to blame the lawyers, judges, or even the court system itself.

Eddie Coppard, 63, a financial services consultant was “accidentally made bankrupt by HM Customs and Excise after officers claimed that he was late sending back VAT returns. The mistake was rectified and the bankruptcy annulled within two days. But it changed his life.” When there was a squeeze on mortgages, he found himself “virtually unemployed” because of the bankruptcy order. Now he earns a relatively meager salary as a bookkeeper and his health has suffered.

He felt the Customs should be pursued over the mistake. When his complaint came before the parliamentary Ombudsman, which criticised

Customs and accepted that Coppard was entitled to compensation, he obtained legal aid, and Customs accepted liability for the accidental bankruptcy.

Coppard had been seeking £400,000 for loss of earnings, distress and reputation. The issue of damages was adjourned for a separate hearing. But when it took place, with a different judge, he was awarded nominal damages of just £2. He took his complaint to the Lord Chancellor. He was dismayed to find that the judge who awarded the £2 was previously in the same chambers as counsel who acted for HM Customs and Excise.

An official reply clears the judge of any conflict of interest. It concludes that there is no evidence of an unfair hearing. But from Coppard's viewpoint, he is worse off and has been criticised as unreliable and prone to exaggeration. His only recourse is to seek leave from the Court of Appeal. He may also try the European Court of Human Rights. Either way, he will face more anguish, time and expense.

Joe Lawrence became embroiled in a boundary dispute with neighbours. The dispute went to trial at Watford County Court, where Lawrence and his wife were defendants. Lawrence's complaint is that on the eve of giving judgement, the judge visited the law firm which represented the other party. The next morning the judge found against the Lawrences.

The visit was discovered by Lawrence by chance. He had complained about the trial outcome to the Lord Chancellor who in turn contacted the judge. The judge disclosed the meeting with the firm but Lawrence was not told about it. What exacerbated Lawrence's complaint was that the Lord Chancellor then wrote to him, assuring that the judge had spoken to no one at the firm connected with the case. It then transpired that the judge had spoken to a legal secretary who had typed letters in connection with the Lawrence's case.

There is no suggestion that the judge or Court of Appeal were other than completely impartial in the handling of this case. But the sequence of events – one mistake leading to another – and the way Lawrence's complaint was handled have fuelled his suspicions of conspiracy rather than mistake. The matter is closed but Lawrence goes away firmly convinced that justice has not been done.

These cases illustrate how relatively simple legal disputes can turn into problems of nightmare proportions – often through lack of communication, or because insufficient attention is paid to ensuring that justice is seen to be done. In such cases the handling of the complaint itself can become a new *cause celebre* - even a fresh legal action. It's "Murphy's law" that in some of the worst complaints, mistakes are made and the complaint snowballs.

by Frances Gibb

After reading

- *Can you trace any identity between your predictions and what you have learnt from the article?*
- *Discuss the cases using your notes. Which case seems more incredible to you?*
- *Could you recollect any cases with similar aforethought events from your or your colleagues' experience?*
- *As a future lawyer, what measures would you suggest to take to avoid the situations that can lead to frustration and loss of faith in justice?*

5.2 'I could have been a Judge but I never had the Latin'

Before reading

- *comment on the title of the story;*
- *work in small groups, make a list of qualities a judge should possess.*

While reading *find the answer to the question "What makes a good judge?"*

Judges have always made a good copy: we laugh at their idiosyncrasies and we fulminate on their judgements. But the diversity of talent displayed by the judiciary raises an important issue: what makes a good judge?

Many barristers and solicitors see a judicial appointment as an obvious next step in a successful career. However, the first role does not necessary equip someone to fulfill the second. Once, on the Bench, an individual who is accustomed to preparing and aggressively arguing a case, even a weak one, may find it difficult to postpone judgement until he has heard all the arguments and evidence. Creativity and powers of persuasion are important to prosecution and defence counsel; reasoning skills and impartiality to the judge.

There are many other issues. Do candidates have the gravitas to preside over a courtroom? Can they summarise complex arguments in simple language? Are they aware of – and comfortable with – the impact of strong emotions, both of themselves and others?

A key competence for a judge is an ability to manage the court process, summarise a case and present a judgement.

Someone who is focused on achieving his own goals – perhaps to the detriment of others – may lack the restraint and objectivity conducive to a just legal process. Similarly, an extrovert who enjoys being the focus of attention may be a poor listener. Someone who is short on self-confidence may be a weak communicator and encounter problems in controlling the court. Perhaps the ideal is someone who can take center stage when necessary to ensure that both sides can present their arguments to the best of their abilities.

As Peter Cook's E.L. Wisty once remarked: "I could have been a judge, but I never had the Latin for the judging."

We'd all like to think that, in these more enlightened times, selection for the Bench should become a rather more exact science.

*by Richard Ahlberg,
chief executive of the occupational psychologists Psychometric Services Ltd.*

After reading

- *Explain how you understand the title now.*
- *Working in pairs interview a potential judge. Make a decision about his/her suitability/unsuitability for the position.*
- *Digest the information on the judge's position in Great Britain and the USA and compare it with the situation in your country.*

Being a judge is usually a prestigious position in society, and as a result a variety of solemn traditions have become associated with the occupation. In most nations of the world judges wear long robes, usually black or red, and sit on an elevated platform during trials (known as the bench). The standard judge uniform originated with the Roman toga. In some countries, notably Britain, judges also wear long wigs and colorful robes. American judges usually wear simple black robes and wield a gavel to keep order in the courtroom.

In most English speaking countries (particularly the United States) a judge is addressed as "Your Honor" when presiding over the judge's court, as a sign of respect for the office. The judges of the Supreme Court of the United States, and the judges of the supreme courts of several U.S. states are called "justices." In the United Kingdom, a comparable rank is held by the House of Lords; its judges are called Law Lords. Judges sitting in courts of equity in common law systems are called "Chancellors."



You will find more information about the office of judge in Multimedia English Course, part III.



Watch TV show "People's Court". Compare it with the similar shows on Russian television.

5.3 Lawyers Lose Immunity from Action

Before reading *try to predict what problem could be discussed in the article under this title.*

While reading *pick up and interpret the words and word combinations in **bold**.*

In a landmark decision, a seven-men House of Lords bench ended the rule that barristers and solicitors are **immune from suit for negligent work** done in court. (*Hall v Simons, the times, July 21, 2000*). The House pointed out that the requirements of public policy had changed. In relation to the negligent conduct of civil cases, all seven judges agreed that the immunity should go, but as to criminal cases, the majority for removing it was only four to three.

Although lawyers' immunity can now be consigned to the shredding machines of history, the House of Lords also dealt with other **key issues relating to suing litigators**. The main problem for claimants may be the **doctrine of collateral attack**. If you sue your lawyer for his negligent conduct of your first case in court, you must generally allege that, absent his errors, you would have won the first case. But if you did not appeal the result of the first case then, in the case against the lawyer, you are implicitly saying that the court deciding the first case made the wrong decision. The court hearing the second case, against the lawyer, might have to say that the first case got it wrong.

It might **damage public confidence** in the courts. The doctrine suggested that, for this reason, such actions against lawyers could not generally be brought. It appears that the House of Lords has held that, as to criminal litigation, the doctrine survives in most cases. Someone who is convicted of a criminal offence but believes that this was due to his lawyer's fault must generally try **to overturn the criminal conviction** before suing the lawyer. The position in civil cases is less clear-cut, although it looks as if someone who loses a civil case need not necessarily overturn the defeat on appeal before he may sue his lawyers.

As to collateral attack, in criminal cases it is easier to appeal than in civil cases, and the Criminal Cases Review Commission may also assist those wrongly convicted. So in criminal cases it is right that defendants who believe that they have been wrongly convicted should first try **to set aside the convictions**, before suing their lawyers. On the other hand in civil cases it is harder to appeal, and inconsistent decisions are less of a problem: losing a civil case is generally not as bad for the reputation, and inconsistent court decisions are not unknown. Nevertheless, claimants will still have to prove negligence and causation of loss, which their lordships thought would generally be difficult.

by William Flenley, an assistant general editor of Lloyd's Law Reports

After reading

- *Compare your predictions with what you have learnt from the article. Say whether you agree with the author or not.*
- *Speculate on the following:*
 - ▶ the main problem for claimants may be the doctrine of collateral attack;
 - ▶ lawyers' immunity from action might damage public confidence in the courts.
- *Working in groups discuss:*
 - ▶ key issues relating to suing litigators;
 - ▶ why it is easier to appeal in criminal cases than in civil ones.
- *Dwell on the idea that "Defendants can now sue their lawyers for poor representation, but it won't be easy".*
- *Reveal your attitude to the author's statement "The removal of advocates' immunity from suit for negligent work will lead to many more successful claims".*
- *Debate the problem of lawyers' immunity from action.*
- *Do lawyers in your country face similar problems? What should be done to avoid the problems of this kind?*

5.4 For the Defense: a Sleeping Lawyer

Before reading *comment on the title. Do you think it could be a joke?*

While reading *find out the evidence to prove whether the trials in question were fair or unfair ones.*

Calvin Burdine, 46, spent 16 years on death row in Texas after his court-appointed lawyer slept during his trial. Burdine, whose appeal was heard by the US Court of Appeals for the 5th Circuit, is just one example of the systematic abuses in death penalty cases highlighted by a Columbia University study made in 2000. The study found that two thirds of death penalty convictions are overturned on appeal.

Burdine was accused of fatally stabbing a former housemate, during a robbery in 1983. because he could not afford a lawyer, the court appointed Joe Cannon to represent him. The jury convicted Burdine of murder and sentenced him to die after a trial in which Cannon not only slept at frequent intervals, but also failed to say one word in mitigation, including how he was sexually abused by his stepfather as a child.

No one disputes that Cannon slept during the trial and that when he was awake his performance was “shoddy” and “deficient”.

Burdine’s lawyer, Robert McGlasson, argued in court that “it should be self-evident that there is something wrong, something terribly and fundamentally wrong with a lawyer who sleeps repeatedly.” The state argued that a lawyer who was asleep during substantial periods of a trial did not necessary mean that assistance was not provided. “He was still representing (when asleep),” said Julie Parsley for the state.

It was not the first occasion that Cannon, now deceased, was seen to be asleep while defending a client. Philip Scanrdino testified at the hearing that he had been Cannon’s assistant counsel at the murder trial of Carl Johnson when Cannon had repeatedly fallen asleep. Johnson was executed in 1995.

The problem of adequate representation is rooted in the system. Two other death row inmates whose lawyers dozed in court are seeking new trials, while many others have claims that their lawyers were otherwise ineffective.

Part of the problem is that Texas has no adequate state funding system to provide counsel to indigent defendants.

A person convicted of a crime is given a court-appointed counsel who typically may be paid \$12 an hour. Similarly, the funds available for investigating are acknowledged to be inadequate.

“Texas has neither an independent judiciary nor an adequate system for providing representation to the poor. As a result, the process by which poor people are condemned to death is often a farce, a mockery, and a disgrace to the legal system and the legal profession,” says Stephen Bright, of the Southern Centre for Human Rights in Atlanta.

After reading

- *Comment on:*
 - ▶ the statistics of death penalty given in the text
 - ▶ the problem of adequate representation raised by the author.
- *Express your viewpoint whether “sleeping lawyers” should have immunity from action (as discussed in 5.3).*
- *Using the facts from the text, make a speech against death penalty.*

5.5 Uncertain Justice

“People get the death penalty not for committing the worst crime but for the misfortune of having the worst lawyer.”

Before reading *discuss the quotation preceding the article. Say whether you share this opinion or not.*

While reading

- *translate the words and word combinations in **bold** into Russian;*
- *find some facts in support of the author’s point of view.*

Wayne Torneby Jr. had a drinking problem, a failing marriage and previous little experience with death-penalty cases when he was signed to defend a Cowlitz County laborer accused of raping and strangling a 12-year-old girl.

A week after 1977 capital case, the Longview lawyer was arrested on his second DUI charge. During hearings, Torneby sometimes seemed drunk and had alcohol on his breath, participants in the murder case said.

His performance worried prosecutors, who **did not want a conviction ruined on appeal because of defense blunders**. They took the unusual step of arguing that Torneby was not qualified to handle such a complex case.

But Torneby's replacement was another troubled man: Irving "Lee" Dane, a Clark County **lawyer facing disciplinary charges for unethical conduct.**

Dane previously had presented three people in death-penalty cases in Washington and Oregon. All three clients had been sentenced to death. Dane was forced to drop the Kondro case only a few months when he was suspended by the Washington State Bar Association. He subsequently was discharged.

The case epitomizes problems with capital punishment in Washington state – **a system riddled with incompetence, inequities and inadequate funding.**

People facing a death sentence frequently have been represented by some of the state's worst lawyers, the Seattle Post-Intelligencer has found.

Six teams of lawyers also were found to have provided "ineffective assistance," meaning they helped put their clients on death row by making mistakes or **ignoring crucial evidence.**

Judges help create the problem by appointing inexperienced local lawyers to capital cases instead of those recommended by the state. Counties often pay these defenders so poorly that **they cut corners, putting convictions and sentences on shaky legal ground.**

At worst, bad lawyer can put an innocent man on death row or a guilty one back on the street. At best, they erode confidence in the system.

contributed by Lise Olsen

After reading

- *Discuss the author's attitude to the problem of uncertain justice, use the facts from the text.*
- *Argue the statements:*
 - ▶ People facing a death sentence have been frequently represented by the worst lawyers.
 - ▶ At worst, bad lawyers can put an innocent man on death row or a guilty one back on the streets. At best, they erode confidence in the system.
- *Discuss whether capital cases really depend on lawyers' good work, their qualification and experience, their ethical conduct.*
- *Working in groups reach a consensus on the following: "Capital punishment creates, it does not solve problems. Solution lies elsewhere: society is to blame".*



Make an Internet Research Project on the topic “Death Penalty.”



Watch the film “The Life of David Gale”; refer to the message of the film in the debate.

- *Using the data you received via the Internet, and from the articles you read, organize a debate on the **death penalty**. If you have to support an argument that is contrary to your personal beliefs, remember that as a lawyer you will sometimes have to argue cases with which you may not totally agree. Although the death penalty tends to be an emotional topic, you must support your position to the best of your ability with facts, including historical or statistical data.*

5.6 The Value of Juries

Before reading *speculate on the title.*

While reading *explain the words and word combinations in **bold**; pick up the facts to discuss advantages and disadvantages of jury trial.*

Not every trial in Great Britain and in the United States is a jury trial. In many civil cases, especially in the field of torts, there are no juries, however. But, if it is a jury trial, the first thing that must be done is **to impanel a jury**. This is done by means of **the voir dire** prior to the actual trial on the issues. During the questioning, the lawyers attempt to discover if jurors might be in any way prejudiced against their clients, and if so, they exercise what is called **challenges: peremptory challenge** and **challenge for cause**.

The trial by jury has an ancient history, but how valuable is the jury in modern times? This is a very controversial question. Trial by judge and jury is by no means perfect, but it is probably the best system for most criminal cases.

Jury trial commands respect because, first, people trained in legal matters – judges – rule on legal matters, while people who are good **commonsense judges of character** and day-to-day circumstances – juries – rule on facts. Secondly, jurors are not **casehardened** and cynical. Nor are they legal officials. Unlike judges, they have no stake in the legal system and its defense but only in reaching honest verdicts. Thirdly, jurors form **a cross-section of society**, unlike well-paid professional judges. Finally, jury decision-making is

group decision-making and, generally, decisions made in groups are more reliable than those made alone.

On the other hand, the system has been criticized because of its high **acquittal rates**, and allegedly unsuitable or subjective jurors; the possibility of intimidation of jurors, and administrative reasons for saving time and costs.

Famous statesmen, politicians, writers of different times expressed various points of view, very often - quite contradictory towards jury trial. Let us get acquainted with some of them:

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

H. L. Mencken "The penalty for laughing in a courtroom is six months in jail; if it were not for this penalty, the jury would never hear the evidence."

Robert Frost "A jury consists of twelve persons chosen to decide who has the better lawyer."

Mark Twain "The jury system puts a ban upon intelligence and honesty, and a premium upon ignorance, stupidity and perjury. It is a shame that we must continue to use a worthless system because it was good a thousand years ago... The humorist who invented trial by jury played a colossal practical joke upon the world, but since we have the system we ought to try and respect it."

After reading

- Discuss the **pros** and **cons** of jury trial.
- Say who from the people mentioned in the text you agree or disagree with.

5.7 Law Chief Wants to End Fraud Trial Juries

Before reading say what you know about the history of the jury service.
Do you share the opinion that a trial by jury is fairer than a trial by judge?

While reading

- explain the meaning of the word combinations in **bold**;
- find the reasons for which the Law Chief wants to end trial juries.

Juries in long complex fraud trials suffer a “torture of boredom” and their use in such cases should be abolished, the Director of the Serious Fraud Office said.

Rosalind Wright considers that the cases should be tried by a judge sitting with **expert assessors**. In the meantime, she favours tightening the rules to stop professionals avoiding jury service and said that **lawyers should not be disbarred from sitting as jurors**.

She wants defendants to have the right to opt only for trial by judge or for trial by judge and assessors. She is strongly against the Home Secretary’s proposal to let juries know a defendant’s previous convictions, **condemning such move as highly damaging and prejudicial**.

“I certainly do favour non-jury trials in major fraud cases because juries are perfectly good arbiters on whether there has been dishonesty in straightforward cases. But our cases are very long and complex. It is almost a cruelty to subject people to this lengthy torture of boredom, day-in, day-out, with nothing to relieve it.”

The review of criminal justice under Sir Robin Auld is expected to recommend a tightening of the rules to stop people avoiding jury service. Rosalind Wright strongly supports such a move. Professionals, including lawyers, would have to sit their turn and trials would be shorter, she believes.

by Frances Gibb, legal editor

After reading

- *Analyse and comment on the above-mentioned reasons for restricting jury trials.*



Watch the film “Runaway Jury”. Use the facts you have learnt about Jury Trial to get prepared for the debate.



Make an Internet Research Project on the topic “Jury Trial.”



Study the articles on Jury Trial in Multimedia English Course.

- *Organize a debate on the topic **Jury Trial – Fair Trial or Mockery of Justice?** Use the arguments presented in the texts and your own ideas. Consider possible counterarguments that might be proposed by the opposing team and get prepared to refute them.*

5.8 Mock Trial: The Death of Johnny Slade

Law schools exercise *mock trials* or *moots* to train law students. Students argue both sides from a fictitious lawsuit in a mock court. There are also moot court contests between teams from different law schools.



To get prepared for a mock trial, in Reader Section, study the Jury's Trial Courtroom layout and Instructions to the Jury.



Watch the episode of a trial from a film "A Few Good Men", make notes of the lawyers' Open Statements and Closing Arguments. Use the techniques of making speeches in the mock trial.

The Roles:

Judge, Bailiff, Prosecution team, Defense team, Jury, witnesses

The Facts:

At 11:35pm on January 13th, police were called to the house of Roxy Vicarious, a national famous television news personality, and her husband George, a chemist. There they found the body of Johnny Slade, who had been shot to death. Roxy admits to the shooting but claims that she was defending herself against a burglar. Johnny Slade, the dead person, was found with five bullets in his chest. The state is charging Roxy with murder.

The Prosecution:

The state claims that Johnny Slade and Roxy Vicarious were lovers, and that Roxy killed Johnny in order to prevent him from exposing their affair by providing an interview and photos to the tabloid newspaper. The state will call three witnesses: Ron Facysman – the police officer who investigated the crime, Wanda Wannabe – a co-worker at Roxy's television station, and Henry Hypeman, a reporter at the Daily Scandal newspaper.

The Defense:

Roxy's attorneys claim that she was merely defending herself against a burglar she had never met before. The idea that Johnny and Roxy were lovers is a scandalous story that was invented by one of Roxy's jealous co-workers.

The defence will call the following witnesses: Roxy Vicarious, George Vicarious, Felicia Trueheart, another of Roxy's co-workers.

5.8.1 *Role play mock trials using the following scenarios:*

- a. During a bank robbery, one of the robbers holds a gun to the bank president's head while her cohorts are getting the money from the safe. She tells the president he is her "hostage." The robbery takes 10 minutes to complete after which the robbers leave the bank president unharmed.
- b. A farmer picks up a mentally ill hitchhiker and takes him to his farm, which is 50 miles from the nearest town. The hitchhiker is told he has to work at the farm until he is able to pay the farmer back for the ride. Because the hitchhiker is mentally ill, he doesn't realize that he can simply walk away from the farm and find another ride to town.
- c. A 13-year-old girl agrees to go to an out-of-state concert with a 16-year-old boy from her high school. They attend the concert without letting her parents know and don't return for three days, during which time her parents have informed the police that their daughter is missing.
- d. A father, who was granted the right during a divorce proceeding to see his daughter on the weekends (visitation rights), doesn't bring the girl back on Sunday night. He and his daughter have gone to Mexico for two weeks without obtaining prior approval of the mother, who was granted custody by the court.
- e. During a divorce proceeding, a mother takes her daughter and flees the state, remaining in hiding with the child because she fears that the father will be granted joint custody even though the mother believes that the father has been abusing the child.
- f. A woman kills her terminally ill husband because she cannot bear to see him suffer. The prosecution states that the woman had "intent to kill" and is therefore guilty of at least second-degree murder. In the ordinary meaning of the words, she did not act "maliciously," but in the legal sense she exhibited "malice aforethought." Second-degree murder is any homicide with "malice aforethought" that is not specifically first-degree murder.

- g. An infant died because his parents didn't obtain medical care in time to save the child. The parents were charged with involuntary manslaughter.

Activity 6: Legal Writing

6.1 Mastering Translation Skills

Translate the article into English using the prompts.

Суд присяжных в России

Владимир Зыков, **заслуженный юрист** Российской Федерации:

Правительство Российской Федерации одобрило проект закона о присяжных заседателях федеральных судов общей юрисдикции.

Авторы закона утверждают, что суд присяжных — самый прогрессивный, демократический, а сами присяжные — истинные выразители воли народа. Но фактически необходимость суда присяжных они мотивируют только тем, что он предусмотрен Конституцией.

Суды присяжных, как правило, представляют домохозяйки, пенсионеры, безработные. И вот на этот неподготовленный, зачастую малограмотный и **социально аморфный** коллектив возлагается обязанность решать судьбы людей.

В суде присяжных профессиональный судья не несет ответственности за законность и **обоснованность** приговора, а выполняет лишь технические функции. Вердикт присяжных о невиновности подсудимого обязателен для него, и он, если даже сам убежден в **необоснованности** его, ничего не может сделать, а должен в обязательном порядке вынести оправдательный приговор и немедленно освободить подсудимого из-под стражи. В соответствии с новым Уголовно-процессуальным кодексом суды присяжных будут творить произвол и беззаконие уже не в девяти, а во всех регионах страны. А за **грубые просчеты**, как всегда, будет расплачиваться народ.

Сергей Вицин, **заместитель председателя** Совета при Президенте РФ по вопросам совершенствования

Honoured
Lawyer

socially
amorphous

validity

groundless
statements

gross errors
Deputy
Chairman

правосудия, доктор юридических наук, профессор, заслуженный юрист России, генерал-майор **внутренней службы** в отставке:

domestic
service

Суды присяжных выносят в 10 раз больше оправдательных приговоров, чем обычные суды. Хорошо это или плохо? Убежден — хорошо. До недавнего времени наши судьи оправдывали менее полпроцента людей. Что же это за суд, перед которым нельзя оправдаться? Зачем мы тогда отказались от пресловутых «**троек**», выносивших приговоры без суда и следствия?

“troika”

Конечно же, суд присяжных не безупречен. Никто не свободен от ошибок. Однако суды присяжных ошибаются реже, потому что они по-настоящему независимы. А независимость — это главный признак судебной власти. А противникам суда присяжных хочу напомнить одну истину, которая должна стать непреложной для каждого юриста: лучше оправдать виновного, чем осудить невинного.

19 февраля 2004, АИФ

6.2 Creative Writing

Write an essay on the topic. Use the following quotations:

- The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done.

US Canons of Professional Ethics

- Justice delayed is democracy denied.

Robert F. Kennedy

- Though justice moves slowly, it seldom fails to overtake the wicket.

Horace

- Lawyers are operators on the toll bridge across which anyone in search of justice should pass.

Jane Bryant Quinn

- My daddy is a movie actor. Sometimes he plays a good guy, sometimes he plays the lawyer.

Malcolm Ford, son of Harrison Ford

UNIT IV

TIES THAT BIND

Activity 1: Discovering Connections

Family is a basic social group united through bonds of kinship or marriage, present in all societies. Ideally, the family provides its members with protection, companionship, security, and socialization.

1.1 *Brainstorm the answers to the following questions:*

- Family is one of the oldest social institutions, still vitally important. Why?
- What makes a happy family? Suggest some ideas and put them in the order of preference.
- A century ago divorces were very rare, almost impossible. Today we witness high divorce rates. Any obvious reasons?
- Why is welfare of children the biggest concern of Family Law?

1.2 *Suggest the answers to the questions of the quiz “Family Traditions in Your Country”.*

1. In your country, do weddings take place:
 - a) in a church?
 - b) at home?
 - c) in a registry office?
2. In your country, do you have a reception after the wedding? If so, who pays for it:
 - a) the bridegroom?
 - b) the bride’s father?
 - c) both sets of parents?

3. At a church wedding, the bride usually walks up the aisle at the beginning of the ceremony:
 - a) with the bridesmaid?
 - b) with the bridegroom?
 - c) with her father?
4. Who keeps the ring during the ceremony:
 - a) the bridegroom?
 - b) the best man?
 - c) the priest?
5. To get married in your religion/country, do you have a religious ceremony and a civic ceremony?

Activity 2: Vocabulary Focus

2.1 *Write the alphabet on a piece of paper. Next to each letter write one word associated with **family**. How many words can you write in two minutes?*

2.2 *Match the words with their explanations.*

- | | | |
|---|---|-----------------------------|
| 1 | People who have recently been (or are still) on their honeymoon. | a) Your nearest and dearest |
| 2 | The people in the family who live together under the same roof. | b) Newlyweds |
| 3 | Husband and wife. | c) Outcasts |
| 4 | The entire range of relatives in one family. | d) A nuclear family |
| 5 | Your close family and friends. (<i>informal</i>) | e) An extended family |
| 6 | A person legally responsible for a child whose parents have died. | f) Spouses |
| 7 | People abandoned by their families or by society in general. | g) A guardian |
| 8 | Parents and their children as a unit of society. | h) A household |

2.3 a) Confirm the questions by repeating the information through different words with the same meaning. Use the verbs and phrases in the box in your answers.

Model: A: Ann *rejected* Brian when he asked her to marry him, didn't she?
 B: Yes, she turned him down.

fall out with, split up with, keep in touch with, run away with, let sb down, make it up, go out together, get on well with, grow up

1. Do your parents want you to *communicate regularly* with your grandparents?
2. Ann *spent her childhood years* in London, then.
3. Are you trying to tell me that Sophia promised to meet you after work but *disappointed* you by failing to do so?
4. David and Jean *dated* for three months before they got engaged, didn't they?
5. Kate *quarreled* with her boyfriend, didn't she?
6. Do you want to tell me that Harry *left home without his parents' permission*?
7. Do you mean to say that after John's affair with someone else you *stopped seeing* each other?
8. So we *have ended your quarrel* now, right?
9. Helen *has a good relationship* with her in-laws, doesn't she?

b) Choose three or four phrasal verbs or phrases from the previous task and build them into a short story. When you have finished you can repeat the activity for a different group of verbs or phrases.

2.4 Fill in the blanks with the right words. Discuss whether similar prejudices exist in your society.

If cartoons are anything to go by, then the attitude of the British towards the family, and the British men towards the (1) ... sex, has not changed much recently, despite (2) ... to shame people into admitting their prejudices.

The mother-in-law, frequently of horrific (3) ..., and usually either about to visit, or being somehow driven from the house, is still a favourite butt

of this kind of (4) Marriage itself has been reduced to the skinny male, dominated by a massive female who habitually lies in (5) ... with the rolling pin behind the door for the return of her drunken (6) Children are rarely shown other than as screaming infants, or else as ill-favoured urchins who (7) ... all their time being objectionable or asking for money. The old are simply (8) ... as comic characters.

The problem is how do such cartoons relate to the way people truly see each other? Does a joke always (9) ... some grain of truth, however much we may dislike to admit it? Or they just give us a chance to laugh at situations we know we should not be laughing at? But it seems more (10) ... that they strengthen our prejudices.

(1) a other	b problematic	c opposite	d taboo
(2) a attempts	b trying	c of	d often
(3) a sight	b view	c appearance	d dress
(4) a person	b type	c category	d humour
(5) a bed	b wait	c the way	d the end
(6) a spouse	b opposite	c colleague	d groom
(7) a waste	b spend	c take	d pass
(8) a seen	b such	c enough	d notorious
(9) a suppose	b achieve	c imply	d contain
(10) a so	b interesting	c over	d likely

2.5 Study the text. Choose the correct words. Express your point of view on the problem under discussion.

The coolest kids in Europe share a single (**1 eagerness/ambition**): they want to be married, have children and live happily ever after. They know it means (**2 putting/having**), their children first and sticking with their spouses even if they (**3 drop, fall**) out of love. This news comes from the report of a new study which tries to find the answer to the modern riddle: What will today's (**4 youth/young**) really want tomorrow?

Poignantly, one of the clearest answers is that they want to have happy families. Even in the most (**5 generous/liberal**) countries there has been condemnation for divorce, and admiration for stable couples.

It appears that among the middle classes, the quality of our children's lives has suffered from the (**6 pressures/burdens**) on parents in high-stress professions. Quality time cannot be time (**7 organized/managed**). Children need unconditional time in the same (**8 way/method**) they need unconditional

love. This study found a generation that had given up trying to (**9 have/get**) its parents' attention but was (**10 determined/stubborn**) to do better by its own children.

2.6 Complete the A-Z quiz.

- A** A(n) ____ marriage is the one in which the parents choose a husband or wife for their child. ____ is the money paid by the individual to support his ex-spouse after the marriage is ended.
- B** is for a ____, i.e. a man who has never been married. An engagement or formal agreement to marry is known as **betrothal**.
- C** Living together as an unmarried couple is known as ____; some states legally recognize this practice and call it **common law marriage**.
- D** is for a divorced person called a _____. Here also belong **domestic partnerships** for both homosexual and heterosexual unmarried couples recognized by some local governments and corporations in the USA.
- E** is for *en* ____, the practice of marrying within one's group, and for *ex* ____, the opposite practice of marrying outside one's clan or religion.
- F** ____ means taking another person's child in your home for a period of time without becoming his legal parents.
- G** is for a **groom** (also **bridegroom**) as well as a **guardian**.
- H** A person who has the legal right to **inherit** somebody's property after the owner's death is called (an) _____. Boys or men with either the same mother or the same father are called ____-brothers.
- I** Your relatives by marriage, especially the parents of your husband or wife, are your _____.
- J** **Newlyweds** usually have these two words written on the back of their car.
- K** is for **kinship ties**, where kinship means being related in a family.
- L** A child born when its parents are legally married is called a ____ child.
- M** is for a **maiden name**, a **mistress** and a **midwife** – a woman trained to help women give birth to children. A relationship within marriage is called a ____ relationship.
- N** To ____ a marriage means to make it lose its legal force.
- O** is for (an) ____, a child whose parents are dead.
- P** is for a ____ - a man/woman you live with but are not married. Before marriage most people prefer to make a ____ contract, specifying their obligations, including those connected with divorce.

- Q** One of the four children born to the same mother at the same time is a **quadruplet**.
- R** is for a ____, a party that takes place after the wedding ceremony.
- S** is for **single**, which means you have no husband or wife who in legal terms would be called your _____. Here also go **same-sex marriages**, **steprelatives and single-parent families**.
- T** is for a ____, your sister or brother born at the same time with you.
- U** ____ means not married or involved in a romantic relationship.
- V** A ____ marriage is deemed invalid in all respects as a result of **incest**, **bigamy** or the like. A ____ marriage is invalid as a result of some defect in the contractual agreement in which all marriages originate (e.g. involvement of the **underaged**).
- W** is for a man whose wife died and who didn't get married again.
- X** is for your former husband/wife.
- Y** **Yokefellows** is what they sometimes call husband and wife.

2.7 *Mark the sentences below (✓) if they are true in your country, (x) if they are not true, and (?) if you are not sure. Compare and discuss your answers in groups.*

- Betrothal can only take the form of a verbal promise between two individuals.
- The custom of arranging marriages used to be quite widespread.
- Sexual relations between steprelatives are legally forbidden.
- Common law marriages are legally recognized by the state in terms of taxes, pensions, etc.
- In recent years roughly half of all newlyweds have cohabitated before marriage.
- Any children born to parents, whose marriage is later declared void, are legitimate.
- Custody issues (the right of one spouse to take care of the child after divorce) are usually decided in court.
- Child benefit is paid only till the children come of age.

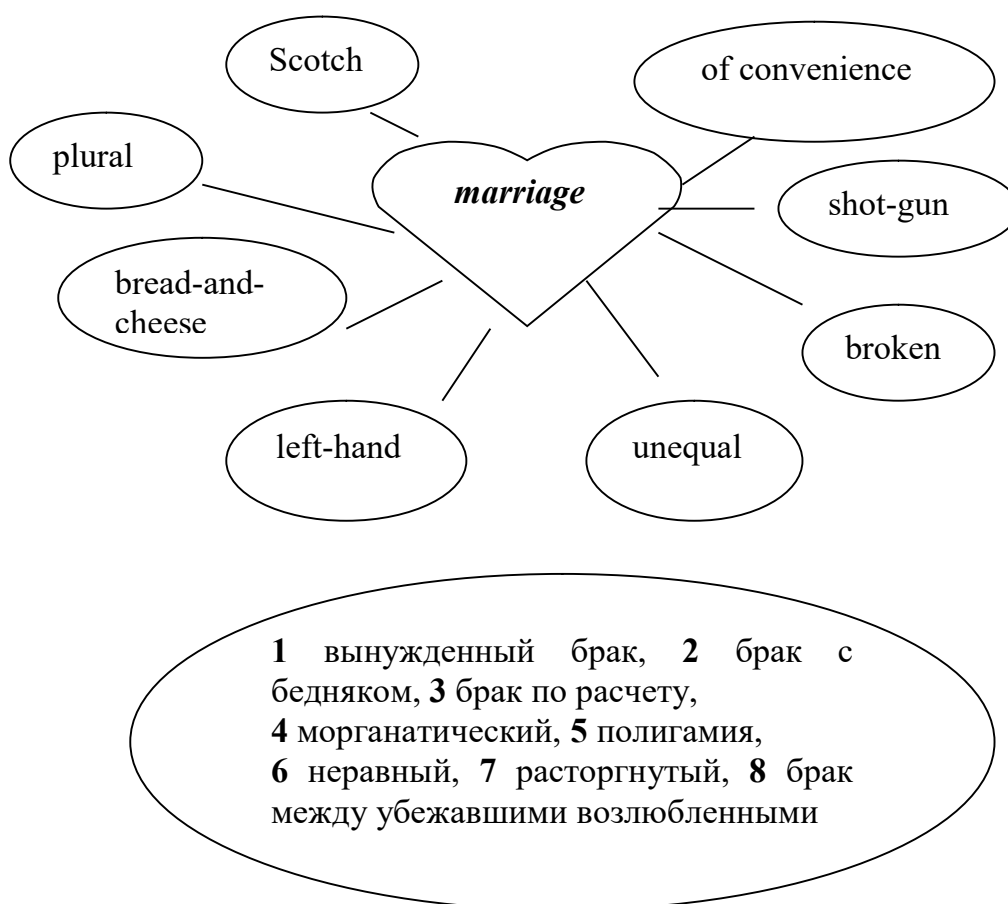


To check your answers, read the texts in Reader Section.

Activity 3: Legally Speaking

3.1 a) Make up word combinations with the core word **marriage**.

b) Identify their meaning, matching them with the Russian equivalents below. Use them in the situations of your own.



3.2 Read the following clichés and try to explain them. Some of them mean opposite things, some are similar. Put them in the pairs according to their meaning. Discuss which ones you believe are true.

- Absence makes the heart grow fonder. (1)
- Opposites attract. (2)
- Beauty is only skin deep. (3)
- Birds of feather flock together. (4)
- Out of sight, out of mind. (5)
- Beauty is in the eye of the beholder. (6)

3.3 Match the following idioms with their Russian equivalents. Use them in short dialogues.

- 1 Cupboard love
- 2 Love in cottage
- 3 The eternal triangle
- 4 Flesh and blood
- 5 One's better half
- 6 To tie the knot

- a) Любовный треугольник
- b) Сочетаться браком
- c) Супруга
- d) Корыстная любовь
- e) С милым рай и в шалаше
- f) Родственники

3.4 Explain the following proverbs. Do you know the corresponding ones in the Russian language? Discuss in groups which proverbs are true to life nowadays, which are out of date.

- Love laughs at locksmiths
- Mary in haste, and repent at leisure.
- Accidents will happen in the best-regulated families.
- Marriages are made in heaven.
- Marriage is a lottery.
- A good husband makes a good wife.
- Love is blind.



For more idioms and proverbs about love and marriage make a search in the Internet.

3.5 Most couples exchange some sort of promises - **marriage vows**. Vows may be prescribed by the church or written by the couple. Here is a traditional American vow:

"To love and to cherish, for better and for worse, for richer and for poorer, in sickness and in health, until parted by death."

Discuss this marriage vow and write the one you would like to exchange with your future husband/wife.



Listen to the Royal Wedding Vows in Electronic encyclopedia "Encarta".

- 3.6** A marital relationship usually involves some kind of contract, either written or specified by tradition, which defines the partners' rights and obligations to each other, to any children they may have, and to their relatives.

*Read the following **Marriage Contract**. Which points would you include to / exclude from the contract if you made one?*

1. The wife will leave her last name.
2. We shall decide together where to live.
3. We shall continue our careers and support each other in them.
4. We shall respect each other's private property, and the things we buy in marriage – shall consider our joint property.
5. We shall both share in management of a home – in cooking, cleaning, shopping etc.
6. We shall bear equal responsibility in upbringing our children till they are 18.
7. If we have disagreement that we cannot resolve, we agree to go to mediation service or Family Council to get some professional help.

- 3.7** *There are a lot of superstitions about love and marriage. First, try to explain them, then do the match. Do you know any superstitions connected with marriage in your culture? Do you believe in them?*

1. Carrying the bride across the threshold.
2. Cutting the wedding cake.
3. Wearing a veil.
4. Wearing a wedding ring.
5. Throwing rice.
6. Orange blossoms in the bridal bouquet.
7. The wedding kiss.
8. Tying old shoes to the newlyweds' car.

a) The sign of the body pledge between the bride and the groom. According to tradition, it is lucky for the bride to cry at this point in the ceremony. If she does not, there will be tears throughout the marriage.

b) They represent eternal love and so is a perfect symbol for a wedding.

c) It is believed to bring the couple good fortune; besides, evil spirits trying to spoil the newlyweds' happiness might cause the bride to fall as she enters her new home.

d) To keep the evil eye from the bride. Raising it at the end of the ceremony is a symbol of the daughter's freedom from her parents' control.

e) This custom began when a father of the bride gave them to the groom as a symbol that he was now responsible for her care.

f) In earlier times a wife was considered a possession, and this was a sign that she had been purchased by the groom. The giving of this object sealed the agreement.

g) It has always stood for good fortune and fertility. The bride, with the help of the groom, must cut the first piece as a sign that they will share all possessions in the future.

h) It was traditionally a way to wish the newlyweds many children. Now it is a way to wish them happiness.



◀ *Listen to the tapes "A Church Wedding" and "A Registry Office Wedding", compare these types of wedding.*

3.8 *Discuss the following quotations. Express your point of view.*

- In the healthiest families, the power is shared by agreement. In the others, one parent or the other is usually more powerful.

Actor John Clesse

- The family is the place where the most ridiculous and the least respectable things in the world go on.

Ugo Betti (1882-1953), Italian playwright

- Our children will hate us too.

John Lennon (1940-80), singer, songwriter

- No matter how old a mother is, she watches her middle-aged children for signs of improvement.

Florida Scott-Maxwell, US psychologist

- Parents are sometimes a bit of disappointment to their children. They don't fulfill the promise of their early years.

Anthony Powell, writer

- A psychiatrist is a fellow who asks you a lot of expensive questions your wife asks for nothing.

Joey Adams



Watch the film "The Wedding Planner", compare the wedding traditions as shown in the film with the traditions in your country.

Activity 4: Legal Reading and Discussion

4.1 *Name the areas covered by Family Law and suggest your definitions.*

4.2 *Compare your definitions with those given in the text.*

Family Law is an area of law dealing with family relations. The word ***family*** is one which is difficult to define precisely. In one sense it means all blood relations who are descended from a common ancestor; in another - a group of individuals related by blood, marriage or adoption who live together under common household authority and who have reciprocal duties to each other. The interpretation of the word ***family*** in a law context depends upon the area of the law concerned. These areas include ***marriage, separation and divorce; adoption, custody and support of children; domestic partnership and related matters, such as law of probate, rights of succession, wills, deprivation of parental rights, domestic violence and some others.***

Marriage is the state of being united to a person of the opposite sex as husband and wife in a legal, consensual, and contracted relationship recognized and sanctioned by and dissolvable only by law.

Separation is the termination of cohabitation of a husband and wife, either preliminary to a divorce or instead of divorcing. ***Separation agreement*** is a contractual agreement setting forth terms pertaining to property, child support, or other matters in the separation of a married couple.

Divorce is the termination of a marriage other than by death. This can be accomplished only by obtaining a judgement, called ***a divorce decree*** from a court. The divorce decree includes provisions regarding division of property, custody of children, alimony and child support.

Adoption is the legal procedure by which an adult acquires the rights, duties, and status of a parent with respect to a child who is not the adult's natural offspring.

Child custody is the right and responsibility of determining the residence, care, and education of a minor child. (*Joint custody, solo custody*)

Domestic partnership (Common law marriage) is a committed relationship between two unmarried people of the same or opposite sex, analogous to marriage.

In the English common law tradition, from which US legal doctrines and concepts have developed, marriage was a contract based upon a voluntary private agreement by a man and a woman to become husband and wife. Marriage was viewed as the basis of the family unit and vital to the preservation of morals and civilization. Traditionally, the husband had a duty to provide a safe house, pay for necessities such as food and clothing, and live in the house. The wife's obligations were maintaining a home, living in the home, rearing the couple's children. Laws and customs traditionally restricted women's opportunities, limited their legal rights and required them to be under the protection and control of a man. For example, under the legal doctrine developed in England during the Middle Ages, the law viewed the husband and wife as one person – and that person was the husband. As a result of this doctrine, a married woman lost many of the legal rights she may have possessed before marriage.

Today the underlying concept that marriage is a legal contract still remains but due to changes in society the legal obligations are not the same. Over the past several hundred years, social, economic, religious, and cultural changes have dramatically altered the institution of marriage, especially the roles of husbands and wives in western societies.

The other relationship the law considers in marriage is that of parent and child. *Parent and Child* is a branch of the law of domestic relations that determines the legal rights and obligations of fathers and mothers to their children and of children to their parents. In common law in the United Kingdom and the United States, parents were legal as well as natural guardians of their child. They had the right to name the child and were entitled to custody. As custodians, they could reasonably chastise the child, but for the excessive punishment the parents were criminally liable for assault. The father was entitled to custody of the child in preference to the mother.

The legal relationships of parent and child established under common law have been modified by statute in Britain and the US. In general, such statutes provide that a married woman is a joint guardian of her child with her husband, with equal powers, rights, and duties. Either parent has the right to

custody and in divorce or separation the court can award custody to the parent best qualified and able to care for the children. Parents must provide for their children such necessities of life as food, clothing, shelter, education, and medical care. Children who are physically or emotionally abused by their parents may be the subject of legal action in order to protect them. Parents' rights to custody of their children may be limited or, in extreme cases, terminated because of failure to provide adequate care.

Two primary themes are believed to be identified that influence marital change. First, the trend both in society and within marriage has been toward an increase in equality between men and women. Second, individuals have placed greater emphasis on love as the motivation for, and basis of marriage. In recent decades, these influences have spread beyond western societies.

4.3 *Explain the difference between:*

- a) marriage and domestic partnership (common law marriage)
- b) separation and divorce
- c) adoption and child custody

4.4 *Compare and contrast legal effects of two major aspects of Family Law in common law countries and the Republic of Belarus. Fill in the chart.*

a) Husband and wife		b) Parent and child	
	Common law countries		The Republic of Belarus
(a)		(a)	
(b)		(b)	



In Reader Section study the article how people apply for Marriage License in Canada.

4.5 *Suggest the ideas the following headings may imply. Read the article and check whether your ideas correspond to the information given in the text.*

Divorce issues.

For many couples, obtaining a divorce has never been easy. Such thorny issues as whether to sell your home, which parent will look after your children, and how it will affect any loans you may have, will all have to be resolved. The old-fashioned concept of establishing that one party is at fault

has been consigned to history, and the important fact to establish now is that the relationship has “irretrievably broken down”.

In court or online?

It is even possible to divorce your partner online, allowing you to save on legal costs - and according to online experts, this can save you about £700 from the average £800. However, this method is only suitable for very straightforward and uncontested divorces.

Divorce stages

The first stage of divorce is obtaining what is known as a “**Decree nisi**”. This is granted if the court is satisfied the marriage has “irretrievably broken down”, and this is proven by showing one of five things: adultery; unreasonable behaviour; desertion on the part of one partner for at least two years; that the couple have been separated for two years and both spouses consent to divorce; or that the couple have been separated for five years. Your spouse's “unreasonable behaviour” must be so intolerable that nobody could reasonably expect you to carry on living with him or her. It could include, for example, financial recklessness, drinking, gambling, or lack of emotional support. You cannot base your divorce on this if you then live together for a period of more than six months afterwards. This rule also applies to desertion, and the discovery that adultery has taken place.

The second and final stage is obtaining a “**Decree absolute**”. The divorce can be stopped at any time until this is granted, so it is advisable to sort out all the financial and practical details first.

What are the alternatives?

Mediation is a voluntary service that allows you and your partner to meet with a trained and impartial negotiator (the mediator) to clarify the issues, discuss the available options, and reach decisions acceptable to you both. While the mediator will manage the process of negotiation, he or she is not there to promote either person's interests. The decisions are ultimately yours. You will still require the services of a solicitor to put your decisions on property or financial matters into legal form. The government is keen for people to attend mediation, and the number of people offering this service has vastly increased in the last few years.

What about the children?

Divorce can be especially confusing for children, who are likely to feel bewildered by events and may even blame themselves for their parents

splitting up. So it is important to minimize the trauma suffered where possible. Both parents may consider they know best, but if you are having problems sorting out arrangements for your children, such as who they live with (custody) and how often the other spouse can visit them (access) then it is a good idea to attend mediation to help you reach sensible and fair decisions. As a last resort, it may be necessary to go to court to apply for custody and access. If you disagree with how your ex-spouse is bringing up your children, then there are other legal options available. You can apply for a court order to stop them pursuing a particular action, or ask the court to decide the best interests of the child regarding a particular issue, such as religious instruction or medical care.

4.6 *Reach a consensus on the following:*

- ▶ Divorces are immoral, they should be banned.
- ▶ In a democratic society divorce procedure should be simplified.



Listen to the tape "Divorce Lawyer" and discuss it.



You can find more information on the topic "Family Law" in Multimedia English Course, part IV and in Reader Section.

Activity 5: Exploring Texts

5.1 What Makes Family?

A conversation with Dr. Mark Hutter, professor of sociology at Rowan University in Glassboro, New Jersey, researcher of family life and its relationships with community

Before reading *look through the questions put to the professor, then try to answer them.*

While reading *compare Pr. Hutter's answers with your ideas.*

Q: What is the most significant change in family dynamics over the past two decades?

A: There are several. One is the aging of the population, causing a shift from a three- to four-generation family. When I think of this unit - with great-grandparents, parents and their children - I have a specific concern and interest in the relationships that exist between the oldest generation and their children – who, themselves, may be grandparents. The second development to note is the fact that young people are postponing both marrying and having children. Most of this reflects economic changes and economic opportunities faced by young people, for whom marriage is not the only option. Educational and career possibilities and a greater range of non-family life options are on hand to them.

Q: If the family is still vital, why must family units be scattered nationwide?

A: Economic and social factors account for this change. Contemporary society often demands a highly mobile group of workers who'll go where the jobs are. This desire to maximize economic opportunities often causes the breakdown of longstanding patterns of kinship interaction. In addition, the greater concern for individual advancement often takes precedence over interest in extended family ties and obligations.

Q: If we speak about family and community, do we feel communities are doing enough to support and promote family life?

A: The trend seems to reflect a greater emphasis on the withdrawal of individuals and the nuclear family from community involvement.

Q: Do you believe that children raised in single-parent households lack any psychological or emotional support?

A: I don't think so – provided that children who grow up in single-parent homes receive the support, nurturing and guidance of their parents, extended family and local institutions. Often we presume, incorrectly, that the only person raising the child is a single parent living in isolation. That doesn't usually happen.

Q: Is there a correlation between the strength of a family and its economic status?

A: Money can alleviate many of the stresses of everyday family life, to be sure. But it's not the panacea for shaping a successful family. The process must involve nurturing and support, as well as control and guidance of children. Affluent parents who are neglectful cannot overcome that neglect of their children with money.

Q: What overriding guiding principles do you find in successful families – that is, the ones that produce emotionally mature, well-adjusted young adults and emotionally satisfied parents?

A: Successful parents and successful children often result from an understanding of the different positions and perspectives they maintain. Parents and children must be sensitive to each other's respective concerns. Here, too, an atmosphere of understanding and sharing must prevail. Family members must accept the fact that life extends beyond the family for each of its members. This outside, or other life must also be taken into consideration as one deals with another.

After reading

Discuss what problems would you like to investigate if you were to conduct a similar research.

5.2 The Marriage Debate

Before reading give your opinion on the following questions:

- What is “traditional family”?
- Is marriage still the usual form of partnership?
- What is alternative to traditional marriage?

While reading find the answers to the above-mentioned questions, compare them with the ones you gave before reading.

Marriage is still the usual form of partnership between men and women and the government is keen to promote policies for the families. Marriage as a means of organizing family life also draws widespread political approval. On

the other hand, the divorce rates are very high, first marriages are lasting for progressively shorter periods. So, why marry at all? After all, it is often a short-lived arrangement and the flexibility and mobility demanded from life today might also recommend against it. The old stigma against cohabitating has largely been removed these days. It also seems that more and more people are happier to live alone.

This is interesting and has provoked quite a fierce debate about the importance or otherwise of marriage for the twenty-first century. Let us look at opposing positions now.

For marriage:

Bob Rowthorn, left-wing Professor of Economics at Cambridge University, recently came out in favour of marriage. Part of his case for marriage is about lower mortality rates for married people, and arguments that abuse of children is less a feature of a stable marriage. But there are even bigger issues at stake. Married men work harder, earn more and are more likely to have a job than other men. Their stable families create a network of reciprocal obligations between generations, siblings and spouses. Despite the growth of nursing homes and social services, care for old and sick adults is mainly the responsibility of close relatives.

Marriage provides someone to monitor a person's well-being and encourage self-regulation. Marriage is an institution in which the pursuit of individual objectives is replaced by joint goals. There is 80-90% public support for marriage as a life goal.

Against marriage:

Feminist Joan Smith wrote recently about the "unrealistic" expectations we have these days about the prospects of life-long, monogamous relationships of the sort promoted by marriage. At different points in the life cycle people need different things in relationships, perhaps from new partners. Smith asserts that the responsible mutual care of children, rather than life-long marriage, is the really important issue for partners today.

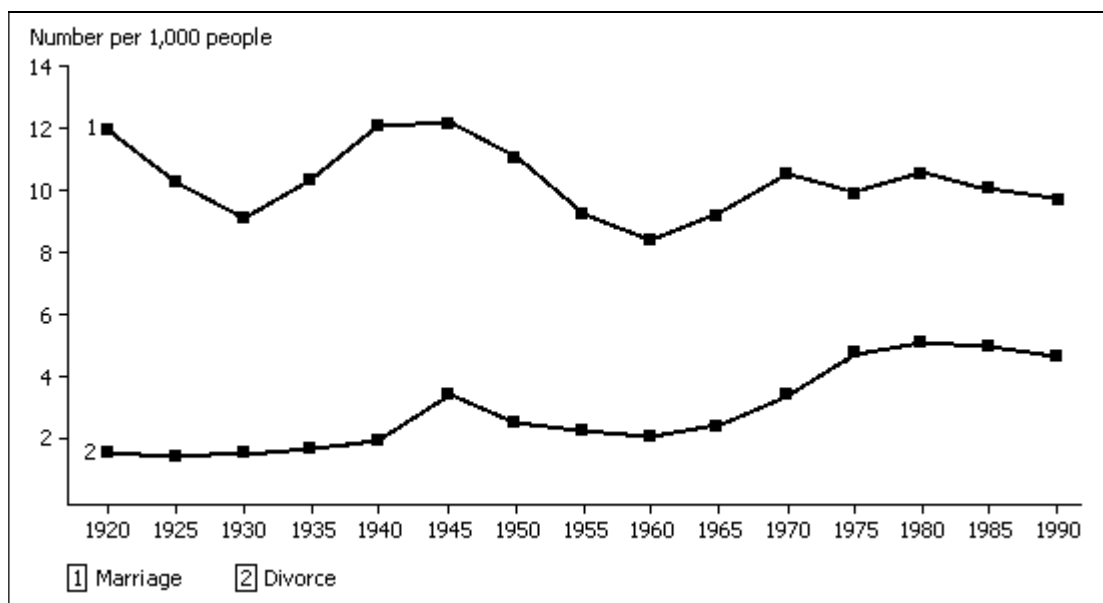
Feminist writer Beatrix Campbell is also a sceptic when it comes to the case of promoting marriage over other forms of family arrangement. She is also critical of the way in which debates about "traditional" family values exclude reference to same-sex parents who, according to research, she claims, usually produce very well balanced and "successful" children. Generally, she argues, mothers and fathers in all sorts of partnerships are much more connected and caring than ever before, especially when marriage conventions dictated that unhappy spouses remained tied miserably to each other.

Chart 1: US Family Size

%	Number of people in the family
2%	7 or more
3%	6
9%	5
21%	4
23%	3
42%	2

(source: US Bureau of the Census, 1997)

Chart2: The rates of marriage and divorce in the US between 1920 – 90



(source: Historical Statistics of the United States)

After reading

- Study the charts and give your comments.
- Give your arguments **for** and **against** marriage.

- *Organize a debate based on your arguments, the charts' data, and evidence given in the text.*

5.3 Prenups: Now They're Romantic

Before reading study the definition of the word **prenup**:

Antenuptial or Prenuptial agreement (Prenups) is an agreement made between a man and a woman before marrying in which they give up future rights to each other's property in the event of a divorce or death.

While reading define the author's point of view on the problem under discussion.

A friend of Arlene Dublin's was "aghast" to learn that the New York City-based lawyer had signed a prenuptial agreement. The friend's shocked response ("We thought you loved each other!") inspired Dublin, who has practiced matrimonial law for 15 years, to write her new book, *Prenups for Lovers: A Romantic Guide to Prenuptial Agreements*. Dublin hopes prenups will someday "be standard with wedding package, along with the license, the ring and the bridal shower." "Prenups are in, messy divorces are out," Dublin says.

Seventy percent of divorces are said to occur over money. A lot of people go into marriage without knowing about each other's assets and debts. The prenup provides a structure for disclosing that information.

People think prenups cause divorce. That's as silly as saying health insurance makes you sick. A prenup increases the chances of an everlasting marriage because you've already done a lot of the hard work.

There's a question if prenups are just for the wealthy. They're for anyone with a business, a professional license or practice, or any assets or debts. Even if you're young with no assets, you have possibilities you want to plan for. Prenups cost a couple hundred dollars. And for every dollar you spend on a prenuptial agreement, it's estimated you save \$10 to \$1,000 in divorce or probate readings.

Prenups are more necessary now because, first, people have more property than ever. Second, the divorce rate is 50%, and 60% for remarriages. People live longer, so it's less likely you are going to be married to one person for life. Finally, divorce laws are murky, particularly in dividing up stock options,

businesses, and professional practices and licenses, which are more important in today's eructated population.

by Jennifer Mendelsohn, USA Weekend, Jan.12-14, 2001

After reading

- *Comment on the following:*
 - ▶ "Prenups are in, messy divorces are out."
 - ▶ "Prenups are just for the wealthy."
- *Act as a newspaper reporter and interview Arlene Dublin. Ask questions to get a full idea of prenups.*
- *Working in groups, prepare a discussion between the supporters and the opponents of a prenuptial agreement.*
- *In small groups work out a prenuptial agreement. Present it to the class.*

5.4 Troubles and Strife for the Unmarried

After 17 years together and having four children, who wouldn't call it a marriage?

Before reading *suggest the ideas that could be discussed under this title; compare your ideas with those of the other students.*

While reading *list the facts that testify that the unmarried couples are treated differently from the married ones.*

When my solicitor told me I had no rights, I first thought she was talking rubbish. I ended up with zero. I went from having a five-bedroom flat in London's South Kensington, a Mercedes, holidays in France and four children in private schools, to live on benefits.

I met my ex in 1980. He had a little flat and I moved in and began working as his assistant. Our first child was born in 1986 and when the second arrived two years later, we bought a bigger property together. We each separate mortgages because we could borrow more that way.

He was very anti-marriage. I did want it and we argued sometimes, but I didn't think it really mattered. People were always saying, "It's only a piece of

paper.” We were joint owners of our business and flat. I was fully aware of how the law stood if one of us died, but I had no idea about the financial impact of not being married.

My second daughter was three days old when the paperwork had to be signed for the property, so I didn’t go to the meeting and I didn’t sign the documents. I thought that having paid for half of it, I’d have some security.

We were extremely close and when you are that close, if it does go wrong, it goes terribly wrong. I was getting concerned about managing financially with four children and threw a wobbly when he booked a month’s holiday in France. He thought I was being neurotic, it escalated and ended in separation two-and-a-half years later.

I went to a solicitor who was excellent and extremely supportive, but I just couldn’t believe that after 17 years I didn’t have any right to my share.

He’d closed the business and set up a new company so I had no rights there. The property was in his name and, as I wasn’t his wife, I had no right to scrutinize his finances.

I think people in this situation should have a court hearing to decide whether the relationship constituted a “marriage”. In my case, after 17 years and four children who would say that wasn’t a form of marriage?

contributed by Georgina Bucknall

After reading

- *Working in groups discuss the following:*
 - ▶ Georgina Bucknall says that she ended up with zero. What does she mean?
 - ▶ Could the woman foresee the financial impact of not being married?
 - ▶ Being very experienced and extremely supportive, her solicitor could not help her. Why?
- **a) You feel** indignant,
sorry for the woman,
contempt for the society,
other.
- **b) Explain your feelings.**
- *Discuss which of the statements you agree with:*

- ▶ Women like Georgina Bucknall, in common law marriage have no legal right to the house and business.
- ▶ People in this situation should have a court hearing to decide whether the relationship constituted a “marriage”.
- *Express your point of view on “common law marriage”. Give your arguments **for** and **against**. Compare them with those of the other students.*

5.5 Divorce Advice Good Year-Round

Before reading *discuss the following:*

Statistics testifies that cases of divorce are on the increase. Marriages are broken down, sometimes irretrievably, without any chance of reconciliation. When a divorce has occurred, who, in your opinion, suffers more: a husband, a wife or their children? Why?

While reading *choose some facts in support of the author’s viewpoint that there are a number of things parents can do to minimize the pain of children during a divorce.*

In “Don’t Divorce Us! Kids’ Advice to Divorcing Parents,” authors John and Rita Sommers-Flanagan offer some suggestions for minimizing the pain of divorce for children.

While there is no simple formula to protect children from the trauma of the divorce process, there are a number of things parents can do.

- Keep the kids out of the battlefield. Don’t fight in front of them and don’t involve them in the arguments.
- Keep the kids informed. Making believe everything is fine fools no one. Don’t share all the glory details, but let the kids know what is happening.
- Don’t allow the kids to take sides. That also means don’t force them to take your side.
- Assure the kids it’s not their fault, and assure them over and over. Kids are sponges for guilt – they are used to making mistakes and getting blamed.

- Keep communication open. It can be difficult and emotionally draining, but encourage your kids to ask questions, to discuss what they're feeling and what's worrying them. Provide honest, helpful answers, not negative propaganda about your spouse.
- Make sure your children know you haven't stopped loving them. It can be confusing, and terrifying, to learn that one's parents have stopped loving one another. Kids need to be reassured that their parents' love for them hasn't disappeared.

by Mary Beth Faller, advocate in Stamford, UK

After reading

- *If you were to write a similar article, what advice would you include in it?*
- *Speculate on the following:*
 - ▶ There is no single formula to protect children from the trauma of the parents' divorce.
 - ▶ Making believe everything is fine – fools no one.
 - ▶ We as a culture aren't good at knowing how to help people who are in pain.
 - ▶ Children in a family double their parents' responsibility.
- *In groups, work out a guide "**Tips for Divorcing Parents**". Present it to the class.*



Watch an episode from the film "Kramer v. Kramer" and say how the father tried to sooth the pain of his son.



◀ *Listen to the tape "Living Through Divorce ", discuss it.*

5.6 More Students Sue Their Parents

Before reading say what you think the students sue their parents for.

While reading explain the meaning of the words and word combinations in **bold**.

Another two students are suing their parents for financial support following a court case in which a law student demanded £400 in living costs from his mother.

Paul Stevenson, 19, a chemical engineering student, has won legal aid to sue his father, John, 41, for £250 a month.

Emma McBride, 17 has taken her father to court to seek £200 a month to support her through exams at college.

A spokesman for the Catholic Church in Scotland **expressed dismay at** the new cases, and said that children taking their parents to court was “materialism **gone stark raving mad**”.

Phil Gallie, deputy chairman of the Scottish Conservative Party, called for a change in the law to prevent students being given legal aid, and said the discovery of more cases was “a sad reflection on society”.

He added: “The parents have either totally **stepped aside** from any responsibility, or the children have expectations which **bear no relation to reality**. Whatever the situation, it is nonsense that they have been given legal aid. Parents have to be responsible, but there needs to be a new, **fast-track system** devised to stop these claims being dragged through the court.”

The Scottish legal Aid Board said that several students **had been awarded legal aid** to pursue actions against their parents.

by Auslan Gramb, Scottish Correspondent

After reading

- *Explain how you understand the following statements from the article:*
 - ▶ “... materialism gone stark raving mad”
 - ▶ “... the discovery of more cases was a sad reflection on society”
 - ▶ “... the children have expectations which bear no relation to reality.”
- *State what you think of the parents-children relations in these families.*
- *Act as a social worker. Interview the students and their parents on the reasons of the conflict. Present the problem at the meeting of your colleagues.*



For more detailed information on the topic look up in Reader Section and Multimedia English Course, part IV.

Activity 6: Legal Writing

6.1 Mastering Translation Skills

Translate into English an article using the prompts.

Развод по-белорусски

Международная статистика беспощадна: по данным ЮНЕСКО, Беларусь одна из самых «несемейных» стран. В рейтинге государств с самым большим количеством разводов мы **уступаем** только Мальдивским островам, России, Гуаму.

yield to/ give in to

Не уступаем Украине, Панаме, США. На 1 тысячу населения Беларуси, включая младенцев и стариков, приходится 467 разводов в год. То есть распадается практически каждый второй брак.

Юристы **склонны** считать, что виной всему особенности национального развода. Если в католических странах, где церковь **категорически против** развода, а государство на стороне церкви и семьи, бракоразводный процесс по затратам равен нескольким пожарам и длиться может 5-7 лет, в Беларуси развестись так же просто, как и расписаться.

be inclined to

strongly object to

Подал иск в суд. По истечении трех месяцев (**время на примирение**), если супруги не передумали, брак признается расторгнутым. Еще проще, если супруги настроены решительно, у них нет имущественных претензий и несовершеннолетних детей. В этом случае развестись можно без прохождения срока примирения.

the time it takes to make it up/to reconcile

В этой ситуации **госпошлина** снимается с истца, в других случаях – с обоих супругов. Еще один момент, упрощающий развод, - раздел имущества. На Западе при разводе практически все имущество отходит детям и жене, если иное не предусмотрено брачным контрактом. В Беларуси весь совместно нажитый скарб честно делится пополам. Даже если один из супругов ни дня в своей жизни не проработал.

legal expenses

Любопытно, что причины, побуждающие людей к разрыву отношений, одинаковы во всем мире. Интернациональны – несходство характеров, измена одного из супругов, нехватка денег, отсутствие любви и заботы, несхожие **жизненные ценности**.

spiritual values

Национальный колорит – пьющий муж. Но, как ни странно, разводы из-за пьянства супругов относительно количества крепко и регулярно выпивающих белорусов – достаточно редки.

АИФ # 12, май 2005

6.2 Creative Writing

Write an essay on one of the following quotations:

- Without a family, man alone in the world, trembles with the cold.
Andre Malraux (1901- 97), French novelist and politician
- To Love someone, you would have to have Hated them. To Hate them, you would have to have Cared for them. And to Care for them, you would have to have Loved them.
Christopher Acedillo
- Hate has the reason for everything. But love is unreasonable.
V.R.Ahaefvtha

READER

UNIT I. LIVING BY LAW

Text 1. What is Law?

Law is a body of official rules and regulations, generally found in constitutions, legislation, judicial opinions, and the like, that is used to govern a society and to control the behavior of its members. The nature and functions of law have varied throughout history. In modern societies, some authorized body such as a legislature or a court makes the law. It is backed by the coercive power of the state, which enforces the law by means of appropriate penalties or remedies.

Formal legal rules and actions are usually distinguished from other means of social control and guides for behavior such as mores, morality, public opinion, and custom or tradition. Of course, a lawmaker may respond to public opinion or other pressures, and a formal law may prohibit what is morally unacceptable.

Law serves a variety of functions. Laws against crimes, for example, help to maintain a peaceful, orderly, relatively stable society. Courts contribute to social stability by resolving disputes in a civilized fashion. Property and contract laws facilitate business activities and private planning. Laws limiting the powers of government help to provide some degree of freedom that would not otherwise be possible. Law has also been used as a mechanism for social change; for instance, at various times laws have been passed to inhibit social discrimination and to improve the quality of individual life in matters of health, education, and welfare.

Some experts believe the popular view of law overemphasizes its formal, coercive aspects. They point out that if a custom or norm is assured of judicial backing, it is, for practical purposes, law. On the other hand, a statute that is neither obeyed nor enforced is empty law. Social attitudes toward the formal law are a significant part of the law in process. The role of law in China and Japan, for example, is somewhat different from its role in Western nations. Respect for the processes of law is low, at least outside matters of business and industry. Tradition looms much larger in everyday life. Resort to legal resolution of a dispute is truly a last resort, with conciliation being the mechanism that is preferred for social control.

Law is not completely a matter of human enactment; it also includes natural law. The best-known version of this view, that God's law is supreme, has had considerable influence in the United States and other Western societies. The civil rights movement, for example, was at least partially inspired by the belief in natural law. Such a belief seems implicit in the view that law should serve to promote human dignity, as for instance by the enforcement of equal rights for all. Muslim societies also embrace a kind of natural law, which is closely linked to the religion of Islam.

Text 2. Common Law in England and the United States

Common law is distinguished from other forms of judge-made law from parallel court systems. In medieval times, for example, common-law courts were secular, as contrasted with the ecclesiastical courts of the Roman Catholic Church. Common-law courts did not deal with merchant law, which was administered in mercantile courts, or with maritime law, administered in the admiralty court.

The most important parallel system was equity jurisdiction. Equity originated in early English law when subjects petitioned the monarch for justice. Such petitions were delegated to the Lord Chancellor and later to a tribunal called the court of chancery. Equity grew into a special body of rules over and above those administered in other royal courts of law. At first, common-law courts were more bound by precedent than were courts of equity, which provided remedies based on notions of fairness to litigants who were denied relief on technical grounds under common law.

By the end of the medieval period, common law and equity constituted the vast bulk of all English law. As common law became less formal and as equity accumulated its own set of precedents, these two forms of judge-made law grew closer together. Britain abolished the distinction between common law and equity in the Judicature Act of 1873. The ultimate effect of the growth and absorption of equity jurisdiction was to gradually expand the range of disputes that could be adjudicated in formal courts.

During and after the Industrial Revolution, in response to the growing complexity of law and the need for greater clarity and accessibility, the British Parliament asserted itself as the principal source of new law, modifying and adding to the body of judge-made law by statute. In modern times, the statutes of Parliament have come to encompass most legal relationships. The common

law, however, remains in force to help interpret statutes, many of which are primarily restatements of common-law rules and principles.

Most of the British common law as it existed at the time of the American Revolution became the foundation of a distinctly American system of law. Common law has varied from state to state, but only one state, Louisiana, differs significantly from the rest, basing its system on the French civil-law model. In each state the highest appellate court, usually the State Supreme Court is the ultimate arbiter of the common law, subject to alterations by legislative action. The U.S. Supreme Court is the ultimate arbiter of all federal law and of the U.S. Constitution, which is superior to all other laws. As in Britain, statutory law has largely supplanted common law in state and federal systems, although common law is still influential. The order of authority of law in the United States is the Constitution, treaties with foreign powers and acts of Congress, state constitutions, state statutory law, and finally the common law.

Text 3. This Is a True Story

My daughter and I have just finished a salad at a Neiman-Marcus Café in Dallas, and we decided to have a small dessert. Because both of us are such cookie lovers, we decided to try the “Neiman-Marcus cookie.” It was so excellent that I asked if they would give me the recipe, and the waitress said with a small frown, “I’m afraid not, but you can buy the recipe.” “Well,” I asked, “How much?” And she responded, “Only two fifty – it’s a great deal!” I agreed to that, and told her to just add it to my tab.

Thirty days later, I received my VISA statement, and the Neiman-Marcus charge was \$285.00! I looked again, and I remembered I had only spent \$(9.95 for two salads and about \$20.00 for a scarf. As I glanced at the bottom of the statement, it said, “Cookie recipe - \$250.00”. That was outrageous! I called Neiman’s Accounting Department and told them the waitress said it was “two fifty”, which clearly does not mean “two hundred and fifty dollars” by any reasonable interpretation of the phrase.

Neiman-Marcus refused to budge. They would not refund my money because, according to them, “What the waitress told you is not our problem. You have already seen the recipe. We absolutely will not refund your money at this point.”

I explained to the Accounting Department lady the criminal statutes which governs fraud in the state of Texas. I threatened to report to the Business Bureau and the Texas Attorney engaging in fraud. I was basically told, “Do

what you want. Don't bother thinking of how you can get even, and don't bother trying to get any of your money back."

I just said, "Okay, you folks got my \$250, and now I'm going to see to it that every cookie lover in the United States with an e-mail account has a \$250 cookie recipe from Neiman-Marcus ... for free."

She replied, "I wish you wouldn't do this." I said, "Well, perhaps you should have thought of that before you ripped me off!" and slammed down the phone.

So here it is! Please, please, please pass it to everyone you can possibly think of. I paid \$250 for this, and I don't want Neiman-Marcus to EVER make another penny off of this recipe!

Have fun!!! This is not a joke – it's a true story. Ride free, citizens!

contributed by Suzanne Anderson

Text 4. Law as Performance

Law, like music or drama, is best understood as performance - the acting out of texts rather than the texts themselves. The American Legal Realists distinguished "law on the books" from "law in action." Our claim takes this distinction one step further: "Laws on the books" - that is, legal texts - by themselves do not constitute the social practice of law, just as music on a page does not constitute the social practice of music. Law and music require transforming the ink on the page into the enacted behavior of others. In an important sense, there is only "law (or music, or drama) in action," in contrast to poetry or fiction, whose texts do not require performance but can be read silently to one's self.

Like music and drama, law takes place before a public audience to whom the interpreter owes special responsibilities. Legal, musical, and dramatic interpreters must persuade others that the conception of the work put before them is, in some sense, authoritative. And whether or not their performances do persuade, they have effects on the audience. For this reason, the best examples of legal performers are not law professors, but persons at the cusp of decision, who must determine - often under highly imperfect circumstances - how a text should be given concrete meaning in the social context before them. That context must include the political and institutional constraints of the moment as well as the capacities of the other performers in the legal system.

Most judges, like most directors, are not blessed with all-star cast of Callases and Oliviers guaranteed to give thoughtful and inspired

performances, or with subtle and sophisticated audiences, eager to receive the latest and most daring interpretations. Like actors and directors, judges must take into account the interpretive abilities and predilections of others. Judicial performances depend on further performances by lower court judges and executive officials; the efficacy of their work often depends on acceptance by others: not only by other government officials, but by the people as a whole. The wise judge, like the wise director, understands the limitations and the interests of her co-performers and her audience, and tailors her interpretations accordingly.

by J.M. Balkin and Sanford Levinson

Text 5. Cloning Myths

Misconception 1: Instant Clones

A common misconception is that a clone, if created, would magically appear at the same age as the original. This simply isn't true. Cloning is an alternative way to create an embryo, not a full-grown individual. This will require a surrogate mother and ample time for the cloned embryo to grow and fully develop into an individual.

Misconception 2: Carbon Copies

Your beloved cat Frank has been a loyal companion for years. Recently, though, Frank is showing signs of old age, and you realize that your friend's days are numbered. You can't bear the thought of living without her, so you contact a biotechnology company that advertises pet cloning services. For a fee, this company will clone Frank using DNA from a sample of her somatic cells. You're thrilled: you'll soon have a carbon copy of Frank - we'll call her Frank #2 - and you'll never have to live without your pal! Right?

Not exactly. Are you familiar with the phrase "nature versus nurture?" Basically, this means that while genetics can help determine traits, environmental influences have a considerable impact on shaping an individual's physical appearance and personality. For example, do you know any identical twins? They are genetically the same, but do they really look and act exactly alike? So, even though Frank #2 is genetically identical to the original Frank, she will grow and develop in a completely different environment than the original Frank or will have a different mother, and she will be exposed to different experiences throughout her development and life. Therefore, there is only a slim chance that Frank #2 will closely resemble the Frank you know and love.

Text 6. Saying Goodbye to Your Friend

Perhaps the kindest thing you can do for a pet that is so sick or so severely injured that he or she will never recover normal health is to have your veterinarian induce its death quietly and humanely through euthanasia. Your decision to have your pet euthanatized is a serious one, seldom easy to make.

Your relationship with your pet is special, and you are responsible for its care and welfare. Eventually, many owners are faced with making life or death decisions for their pets. Such a decision may become necessary for the welfare of the animal and for you and your family.

A decision concerning euthanasia may be one of the most difficult decisions you will ever make regarding your pet. Your decision is a personal one, but it need not be a solitary one. Your veterinarian and your family and friends can assist and support you. Consider not only what is best for your pet, but also what is best for you and your family. Quality of life is important for pets and people alike.

If your pet can no longer do with you and your family the things he or she once enjoyed, if your pet cannot respond to you in the usual ways, or if there is more pain than pleasure in his or her life, you may need to consider euthanasia. Likewise, if your pet is terminally ill or critically injured, or if the financial or emotional cost of treatment is beyond your means, euthanasia may be a valid option.

Your veterinarian understands attachment to pets, and can examine and evaluate your pet's condition, estimate your pet's chances for recovery, and discuss potential disabilities and long-term problems. He or she can explain the medical options and possible outcomes. Because your veterinarian cannot make the euthanasia decision for you, it is important that you fully understand your pet's condition.

If there is any part of the diagnosis or the implications for your pet's future that you don't understand, ask to have it explained again. Rarely will the situation require an immediate decision. Usually, you will have time to review the facts before making your decision.

As you make your decision, you may wish to discuss the care of the remains of your pet's body with your family and veterinarian. You have several options, and your veterinarian can provide information about burial, cremation, or other alternatives.

Euthanasia might be necessary if a pet has become vicious, dangerous, or unmanageable. However, some undesirable and abnormal behavior can be changed.

Economic, emotional, and space limitations or changes in lifestyle also may force an owner to consider euthanasia of a pet, but it is better to find another solution or an alternative home for these pets. Euthanasia should be considered only when another alternative is not available.

Text 7. Combating Internet Crimes

Hacking has a long, varied history. A subculture has grown up around the practitioners and seeped into popular culture.

As information technology continues to play an important role, the hacker continues to make his presence felt. Paranoia runs deep at hacker convention. The hacker community, from the mischievous pranksters to serious criminals cost businesses billions of dollars. Ultimately, who is responsible for maintaining security in a wired world?

The Better Business Bureau (BBB) system in the U.S. extends over 98% of the nation; coast-to-coast, and in Hawaii, Alaska, and Puerto Rico. Since the founding of the first BBB in 1912, the BBB system has proven that the majority of marketplace problems can be solved fairly through *the use of voluntary self-regulation and consumer education*.

Geographic information systems are computerized mapping programs that help corporations, private groups and governments make decisions, track discrimination and fight crime.

The National Fraud Information Center NFIC was established in 1992, as a project of the National Consumers League, the oldest nonprofit consumer organization in the US, to fight the growing menace of telemarketing fraud by improving prevention and enforcement.

Legal Information Institute (LII) carries out applied research on how to put law on the Net in an effective way that works for a wide range of citizens.

The Center for Democracy and Technology promotes democratic values and constitutional liberties in the digital age. With expertise in law, technology, and policy, CDT seeks practical solutions to enhance free expression and privacy in global communications technologies. CDT is dedicated to building consensus among all parties interested in the future of the Internet and other new communications media.

UNIT II. THE LAW AND YOUNG PEOPLE

Text 1. Juvenile Delinquency: A Brief History

The Harsh Beginnings

Children were viewed as non-persons until the 1700's. They did not receive special treatment or recognition. Discipline then was what we now call abuse. There were some major assumptions about life before the 1700's.

The first assumption was that life was hard, and you had to be hard to survive. The people of that time in history did not have the conveniences that we take for granted. For example, the medical practices of that day were primitive in comparison to present-day medicine. Marriages were more for convenience, rather than for child-bearing or romance.

The second assumption was that infant and child mortality were high. It did not make sense to the parents in those days to create an emotional bond with children. There was a strong chance that the children would not survive until adulthood.

The Beginning of Childhood

At the end of the 18th century, *The Enlightenment* appeared as a new cultural transition. This period of history is sometimes known as the beginning of reason and humanism. People began to see children as flowers, who needed nurturing in order to bloom. It was the invention of childhood, love and nurturing instead of beatings to stay in line. Children had finally begun to emerge as a distinct group. It started with the upper-class, who were allowed to attend colleges and universities.

Industrialization

Industrialization set into motion the processes needed for modern juvenile delinquency. The country had gone from agriculture to machine-based labour intensive production. Subsistence farming quickly turned into profit making. People who were displaced from their farm work because of machinery were migrating to the city to find work.

Urbanization

There was a huge increase in the amount of movable goods that were produced. These movable goods were easy to steal. The stealing of these goods made property crime rise tremendously in these urban centers. The wealth of the upper-class increased, and stealing became a way of living.

The large urban centers also created another problem. The work place was now separated from the home. During the hard times both parents took jobs. There was also very little for the youths to do, especially when school was not in session. It was then that youths were becoming increasingly unsupervised. These youths were largely unemployed. Without supervision, and with movable goods easily available, stealing became a way of life.

The huge influx of people to these urban areas overwhelmed society. The factories could not keep up, and unemployment became a factor. Poverty became widespread.

Salvage Attempts

Poorhouses were created to keep youthful offenders away from trouble. The idea behind them was to take the children of the “dangerous” classes out of their “dangerous environment.” Kids were thought to be needed to be saved. The majority of these children were rounded up for the crime of being poor, not because they committed a crime. These houses, sometimes referred as reform schools, were very harsh. This was contradictory to the ideas that they needed nurturing and love. The houses eventually became overfilled, and children were sent out West as indentured servants. Some of them never were allowed to have contact with their parents again.

Industrialization and urbanization played a tremendous role in the modern era of Juvenile Delinquency. A lot of these factors are true today. Many more farms are going bankrupt. Unemployment is still a factor with the youth of today. We are a culture that values material wealth over and above all. Youth who have no money to live the way they want will often turn to crime as a way to satisfy themselves.

Text 2. Trends in Juvenile Delinquency and Alternative Treatment Methods

(USA)

The number of juvenile arrests have been declining nowadays. A lot of this change has to do with the declining teenage population. There are 6 million fewer teenagers today than 20 years ago.

Property crime in the U.S. has been fairly stable. Violent crime has seen a tremendous increase. Crime is generally a young person's game.

Property crime peaks at age 16, violent crime peaks at age 18. All crime drops off dramatically at about age 30.

These statistics should be viewed with caution. For example, some of these figures were estimated, the official numbers may be less disturbing, or even underestimated. With an increased emphasis on juveniles, more enforcement and less discretion equals higher figures.

Today there is an increasing trend in looking for alternative treatment programs. Instead of jails and youth detention facilities, boot camps, foster homes, and other methods are being researched.

The Juvenile Justice System has many treatment options to choose from. Besides the usual jails and correctional centers, there are specialized Youth Centers, Group Homes, and Foster Care Programs.

Youth Centers for Serious Offenders

The Paint Creek Youth Center in Ohio was assessed by Peter Greenwood and Susan Turner (1993). The main goal of this center is to provide high-quality tailored programming. There is a three-day orientation program and an aftercare program to assist in the transition back to society. The youths receive classes and formal counseling instead of being locked up in a cell. They are part of a community.

While at the center, they earn privileges as they progress. Among the privileges there are allowed family visits at the center, a paying job, and weekends at home. The uniqueness of this program is the emphasis on tailored treatment. Instead of being lumped into groups, the youths are counseled individually. This allows the counselors and youths to benefit from the program.

Group Home Treatment Programs

Haghighi and Lopez (1993) evaluated the success/failure of group home treatment programs for juveniles. The two factors used in the analysis were evaluations from program staff and the reappearance of the juvenile in the juvenile justice system after release.

Haghighi and Lopez found that 62.5% of the juveniles were rated as successful. The rest either failed, were sent to another facility, or committed another delinquent act after release. Juveniles with prior treatment, such as probation, were more successful than those with no treatment or with time spent in a juvenile detention center.

In conclusion, Haghighi and Lopez found that the group home program should be used in the early stages of delinquent behavior. They also claimed that there should not be a departure from this type of treatment which reduces the cost of juvenile justice, and that the group home program should be a priority instead of an option.

Foster Family Homes

Galaway, et al. (1995) wrote an article that claimed, family homes for emotionally or psychiatrically impaired youth may have hidden benefits for delinquents. Family care providers were said to be able to manage delinquents in a home setting and that their behavior will improve. The study was composed of 220 U.S., 18 Canadian, and 28 U.K. programs.

Less than half of these programs served delinquents. It was reported that 41% of delinquent youth completed the programs, 12% were administratively discharged, 14% showed no progress, and the rest were discharged due to breakdown of the youth or foster family. The average length of stay was 7.5 months. They determined that foster family care may be a viable alternative for delinquents and could be used more often. It is sometimes the case that youth are placed in the wrong setting (jail) because there is no other alternative.

The juvenile justice system today has many treatment options to choose from. The new and intensive programs, which are tailored to the individual offender, have some promising prospects. There is also hope that specialized programs started at facilities to incarcerate juvenile offenders will improve recidivism.

Text 3. Death Penalty for Teens Re-Examined

Napoleon Beasley spotted a car he liked, followed it and shot the owner as he pulled into his garage. The victim's wife watched the whole thing. Beasley was 17, legally still a child, at the time of the crime.

Napoleon admitted his guilt. When asked directly if he is innocent, he replied: "No." The prosecutor in the case maintains that death is the correct punishment for Beasley, and so far no court has agreed to a delay or reduction in the sentence. Beasley, who turned 25, was sentenced to death for the 1994 killing of John Luttig in Tyler, Texas.

Carl Bell, a psychiatrist at the University of Illinois says, "Teenagers, while capable of understanding right and wrong, are too immature and too suggestible to face the ultimate penalty of execution."

The American Bar Association has no position on the death penalty in general but has expressed opposition to it for anyone under 18.

In Beasley's case, he was an excellent candidate for rehabilitation, said Steven Drizin, supervisor of the Children and Family Justice Center at Northwestern University.

“The United States is nearly alone in the world in allowing execution to those too young to smoke, drink, vote or join the Army,” said Anne James, director of international human rights law project at American University’s law school.

Amnesty International highlighted the case and called the United States “a rogue state as far as capital punishment is concerned.”

The United States may eventually bow to international pressure, or individual states may begin questioning the practice and initiate actions to repeal teenage death-penalty laws.

Twenty-three of the thirty-eight states that permit capital punishment allow it to impose on 16- and 14-year-olds. The other fifteen states do not allow the death penalty to be imposed on anyone under 18.

Likewise, defendants prosecuted under federal laws are not subject to the death penalty if they are under 18.

“It may come too late for Napoleon, but we see light at the end of the tunnel,” Drizin said.

by Anne Gearan, the Associated Press

Text 4. Go to Parenting Lessons, Mother of Tearaway Told

The mother of a tearaway was ordered to learn to become a better parent. She must attend a three-month course of lessons in parenting including how to curb her son’s unruly antics – which has made legal history.

At the age of 12, the boy became the youngest child in Britain to be banned from an area of his home town.

He and his 15-year old brother were prohibited from an ‘exclusion zone’ in the center of Weston-super-Mare, Somerset, after 116 crimes over a three-month period, including breaking a teenager’s nose, abusing shop staff and joyriding.

They were given an anti-social behaviour order by magistrates under Government laws aimed at getting tough on crime.

But they broke the instruction, and now magistrates have imposed a parenting order on their 35-year-old mother to force her to control her younger son. His brother is being held in youth custody.

The younger boy, who cannot be named for legal reasons, will also be subject to the strict terms of a three-month ‘action plan order’.

He and his mother will receive counseling sessions with police, social, education and probation services officials.

The parenting order was introduced to allow parents and children to be supervised rather than punished by fines. It was imposed by magistrates after the 13-year-old admitted committing more crimes.

The parenting order is the court's last resort before sending the boy into youth custody and fining his mother £1,000 if she does not keep him in line.

by Lucie Morros

Text 5. Young People's Rights and Obligations under Scots Law

The law is very important to everyone. Laws are rules that keep order in our community and they affect all of us, not just adults. If you think of our everyday lives, laws are essentially part of this. The law involves you - young people, as well as older people.

We are all citizens, and as such, we all have a duty to behave in a law-abiding way, to respect ourselves, our neighbours and their property.

The law is there to protect you and to ensure that we can all live safely and harmoniously together but, remember, laws impose duties on us as well as giving us rights.

The law has a huge amount to say about the rights and responsibilities of those under 18. Scots law is very different from English law in lots of areas. For instance, you can take money out of your own bank account; you can be charged with a crime; the law assumes you are old enough to have a solicitor and you have a right to see a doctor on your own; you have full legal capacity in Scotland; you can marry and get a full time job.

When you live in Scotland, Scots law applies to you. You can find out how the law affects you in any number of situations ranging from the less serious matters such as those concerning operating a bank account to more serious matters such as what to do if you are a victim of crime, if you see a crime being committed or if you have been accused of a crime. Here are some important things about your legal rights:

Did you know that:

- You can see a doctor without your parents being informed;
- You can have your own solicitor and the government will usually pay the bill;
- If your parents split up and the court is deciding what is to happen, you must be asked what you think;

- If the police interview you, you only need to give your name and address;
- You can change your name once you are 16.

Parental Responsibility

It is the rights and duties which parents have towards their children. Parental Responsibility means taking responsibility for you while you are a child and making decisions about you.

All mothers have Parental Responsibility. Your father will have Parental Responsibility if he is or was married to your mother. If your father was not married to your mother he may have obtained Parental Responsibility by making a formal agreement with your mother or by an Order of the court.

From 1st December 2003, fathers who register a child's birth with the mother automatically gain Parental Responsibility. This will only apply to children who are registered after 1st December 2003.

If your father's name was put on your birth certificate before 1st December 2003, he will not have parental responsibility unless he has either been married to your mother or he has obtained it by court order or agreement. If your father's name was not on the birth certificate before 1st December 2003, he can apply with your mother's agreement to re-register your birth.

If you move to live with a member of your family other than your parents (e.g. grandparents, aunt or uncle or older brother or sister) or with someone else, those persons may obtain Parental Responsibility for you if the court makes a Residence Order or Special Guardianship Order.

If you are on a care order, social services hold parental responsibility for you. If you are 'looked after' by a local authority without a care order, either one or both of your parents will be the only ones with Parental Responsibility unless someone else has a Residence Order or a Special Guardianship Order in respect of you.

Social Services cannot change your name unless everyone who has Parental Responsibility for you agrees. Social Services cannot arrange for you to go abroad for more than a month unless everyone who has Parental Responsibility for you agrees, or the court makes an order. Social Services cannot change your religion. You cannot be adopted without the agreement of your parents unless the court orders it.

Your parents have Parental Responsibility until you are 18. The local authority have Parental Responsibility if there is a care order and that Parental Responsibility lasts until you are 18 unless the order is discharged.

UNIT III. FAIR TRIAL

Text 1. Legal Systems and Dissimulation

America and Great Britain have the adversary legal system, not the inquiry system found in Germany, Italy, France, and Spain.

In the adversary system the opposing sides selectively emphasize some facts and denigrate other facts often using dramatic devices and rhetorical flourishes. These tactics are used as lawyers make motions, conduct discovery, enter objections, examine witnesses, and deliver closing arguments. This is done to cast their own facts in the best possible light and to cast the other side's facts in the worst possible light.

It's clear, an adversary legal system requires that lawyers be skilled in the arts of dissimulation - a form of lying - that involves the fervent telling of half truths and the skilful misleading of others through verbal indirection.

The Inquiry System and the British System

The inquiry system of law uses one government appointed lawyer to gather and present all facts in a case to the judge and jury. Parties are allowed to have their own lawyers and may ask additional questions at trial. This system is generally agreed to be 1/3 as costly, to be three times as fast, to give better results most of the time; but most important, it does not require that large numbers of young people be formally trained in dissimulation. Fees in this system are set by the government. Parties with small cases face small fees; parties with large cases pay large fees. The large cases subsidize the cost of the small cases, society accepts this approach because everyone benefits when society's disputes are handled properly.

In Britain, the adversary system works more smoothly than it does in the United States. British lawyers who go into court are called barristers. Lawyers who prepare wills, contracts, trusts, or regulations for the government are called solicitors. In America all lawyers are expected to be able to do either courtroom work or legal paperwork. British barristers because of their extensive courtroom experience make fewer procedural errors and do a better job representing clients.

The British court system has two other improvements: (1) barristers are required to wear standardize clothing and must not use arm and body motions to dramatize their speaking points, and (2) juries are selected before the trial by an officer of the court or judge removing those that have conflicts. The barristers are not given any opportunity to challenge or disqualify members of the jury. In Britain the appellate process leads to a judicial committee of the

Parliament not a stand alone “supreme court”. This assures that the “case law” of Great Britain is kept compatible with the laws enacted by Parliament. In America it is not uncommon to see Supreme Court decisions working at cross-purposes with the laws enacted by Congress or the States.

Text 2. Rules of Professional Conduct

Indiana Rules of Court

A Lawyer’s Responsibilities

A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. As *a representative of clients*, a lawyer performs various functions. As *advisor*, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As *advocate*, a lawyer zealously asserts the client's position under the rules of the adversary system. As *negotiator*, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealing with others. As *intermediary between clients*, a lawyer seeks to reconcile their divergent interests as an advisor and, to a limited extent, as a spokesperson for each client. A lawyer acts as *evaluator* by examining a client's legal affairs and reporting about them to the client or to others. In all professional functions a lawyer should be competent, prompt and diligent.

A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law. A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. As *a public citizen*, a lawyer should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As *a member of a learned profession*, a lawyer should cultivate knowledge of the law beyond its use for clients; employ that knowledge in reform of the law and to strengthen legal education. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

Scope

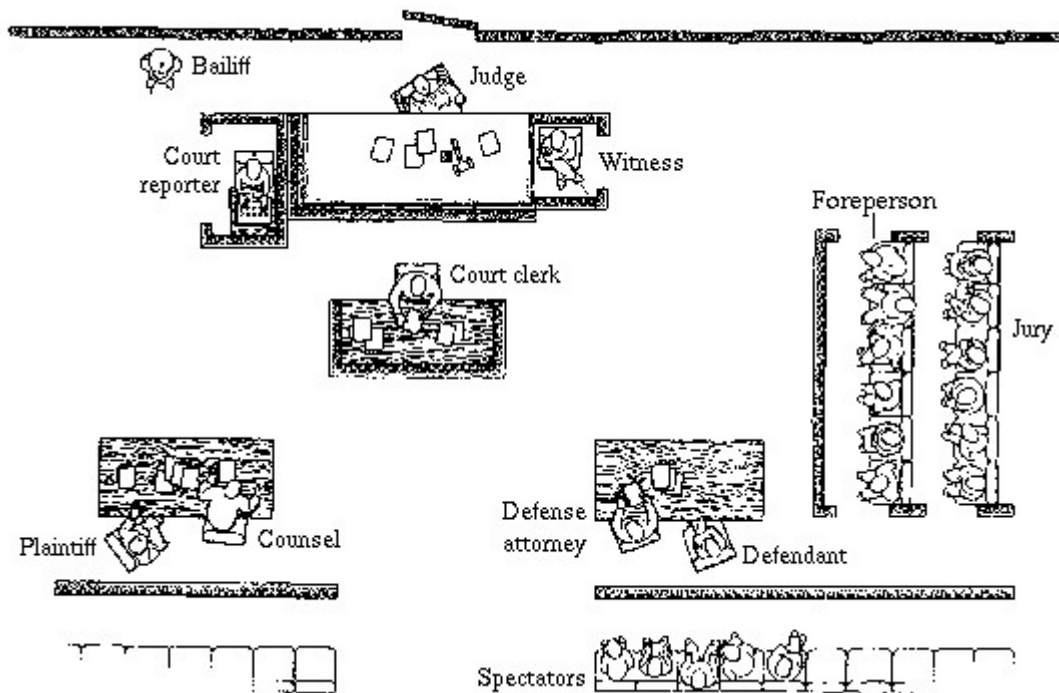
The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the Rules are imperatives; cast in the terms “shall” or “shall not.” These define proper conduct for purposes of professional discipline. Others, generally cast in the term “may,” are permissive and define areas under the Rules in which the lawyer has professional discretion. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other Rules define the nature of relationships between the lawyer and others. The Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the Comments use the term “should.” Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules. The Rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general. Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings.

Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, the severity of a sanction, depends on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

Violation of a Rule should not give rise to a cause of action nor should it create any presumption that a legal duty has been breached. The Rules are designed to provide guidance to lawyers. They are not designed to be a basis for civil liability, but reference to these rules as evidence of the applicable standard of care is not prohibited. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons.

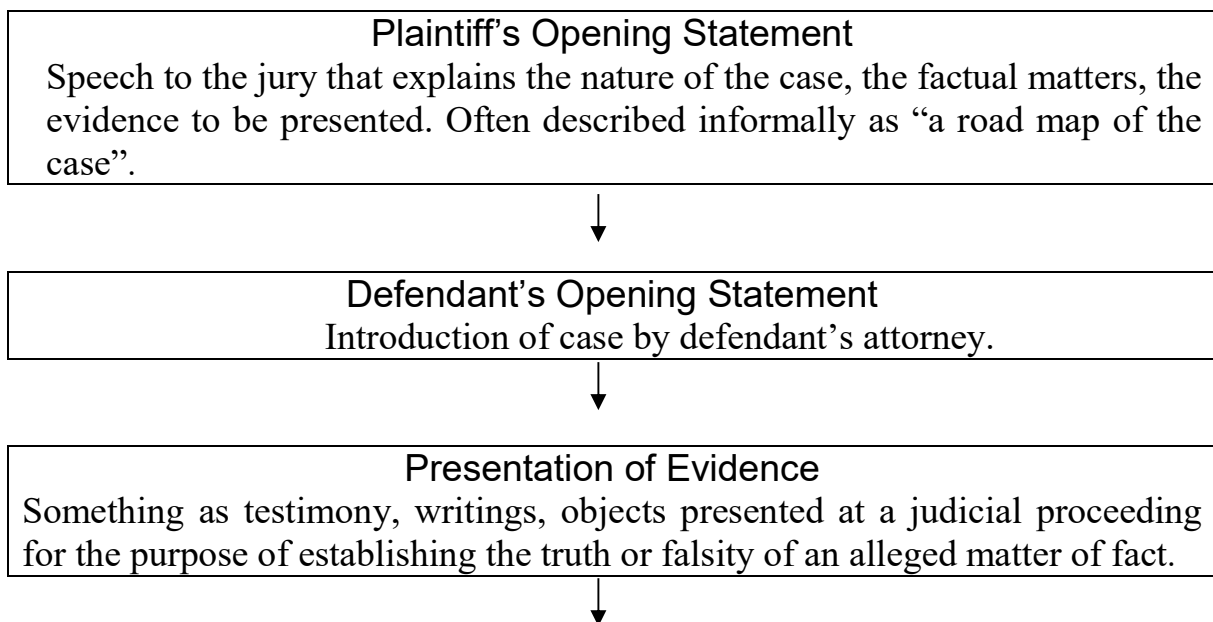
Text 3. Jury Trial

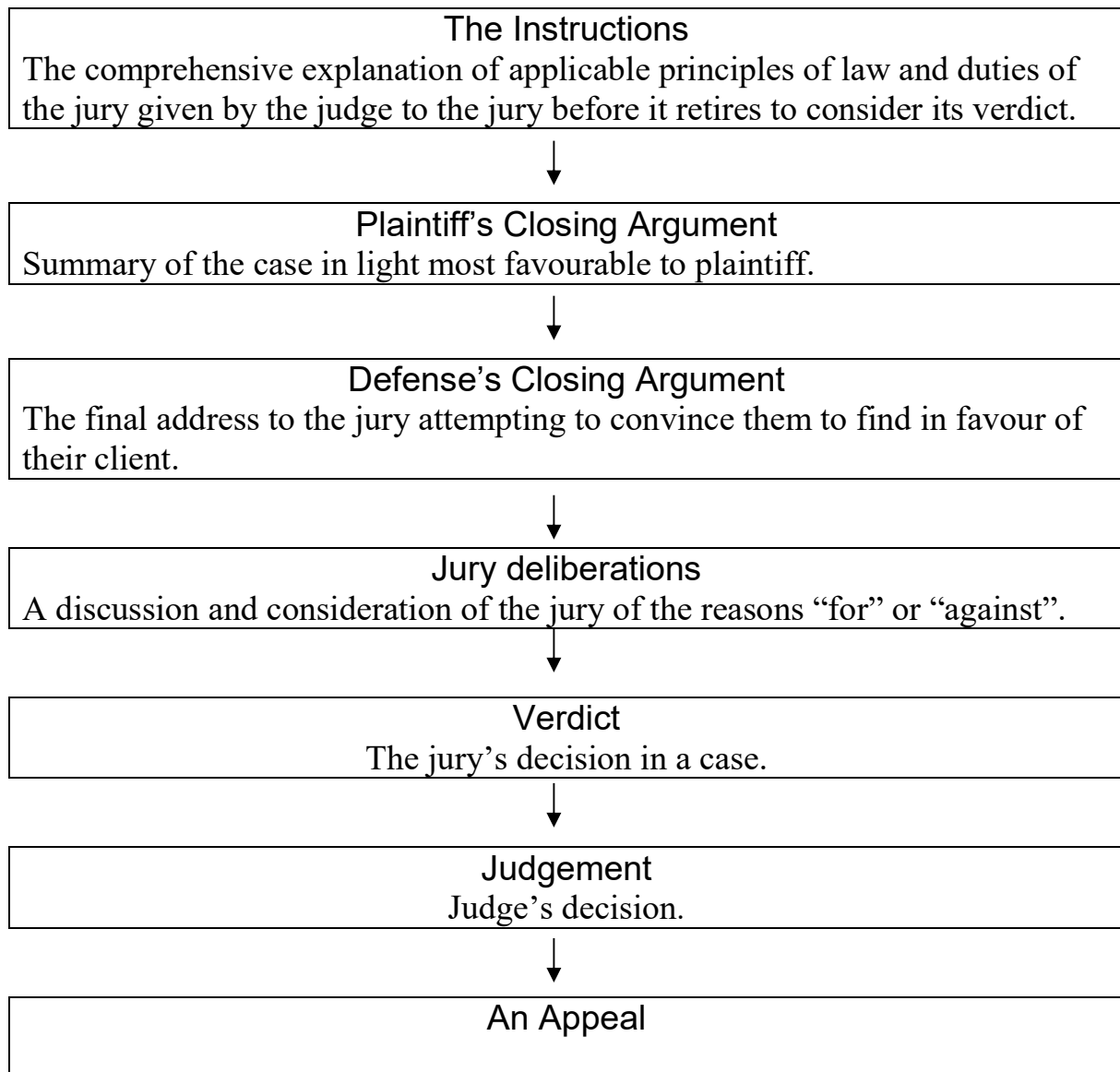
The Jury Trial Courtroom Layout



Stages of the Jury Trial

Once the jury has been impaneled, the trial can begin. The following table outlines the progress of a trial.





Text 4. Instructions to the Jury

Instruction No. 1

It is your duty to determine which facts have been proved in this case from the evidence produced in court. It is also your duty to accept the law from the court, regardless of what you personally believe the law is or ought to be. You are to apply the law to the facts and in this way decide the case.

A charge has been made by the prosecuting attorney by filing a document, called a complaint, informing the defendant of the charge. You are not to consider the filing of a complaint or its contents as proof of the matters charged.

The only evidence you are to consider consists of the testimony of witnesses and the exhibits admitted into evidence. It has been my duty to rule on the admissibility of evidence. You must not concern yourselves with the reasons for these rulings. You will disregard any evidence that either was not admitted or that was stricken by the court.

In determining whether any proposition has been proved, you should consider all of the evidence introduced by all parties bearing on the question. Every party is entitled to the benefit of the evidence whether produced by that party or by another party.

You are the sole judges of the credibility of the witnesses and of what weight is to be given to the testimony of each. In considering the testimony of any witness, you may take into account the opportunity and ability of the witness to observe, the witness's memory and manner while testifying, any interest, bias or prejudice the witness may have, the reasonableness of the testimony of the witness considered in light of all the evidence, and any other factors that bear on believability and weight.

The attorneys' remarks, statements and arguments are intended to help you understand the evidence and apply the law. They are not evidence. Disregard any remark, statement or argument that is not supported by the evidence or the law as stated by the court.

The attorneys have the right and the duty to make any objections that they deem appropriate. These objections should not influence you, and you should make no assumptions because of objections by the attorneys.

You have nothing whatever to do with any punishment that may be imposed in case of a violation of the law. The fact that punishment may follow conviction cannot be considered by you except insofar as it may tend to make you careful.

You are officers of the court and must act impartially and with an earnest desire to determine and declare the proper verdict. Throughout your deliberations you will permit neither sympathy nor prejudice to influence your verdict.

Instruction No. 2

The defendant has entered a plea of not guilty. That plea puts in issue every element of the crime charged. The State is the plaintiff and has the burden of proving each element of the crime beyond a reasonable doubt.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless during your deliberations you find it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly, and carefully considering all of the evidence or lack of evidence. If, after such consideration, you have an abiding belief in the truth of the charge, you are satisfied beyond a reasonable doubt.

Instruction No. 3

Evidence may be either direct or circumstantial. Direct evidence is that given by a witness who testifies concerning facts that he or she has directly observed or perceived through the senses.

Circumstantial evidence is evidence of facts or circumstances from which the existence or nonexistence of other facts may be reasonably inferred from common practice. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. One is not necessarily more or less valuable than the other.

Instruction No. 4

A witness who has special training, education or experience in a particular science, profession or calling, may be allowed to express an opinion in addition to giving testimony as to facts. You are not bound, however, by such an opinion. In determining the credibility and weight to be given to such opinion evidence, you may consider, among other things, the education, training, experience, knowledge and ability of that witness, the reasons given for the opinion, the sources of the witness' information, together with the factors already given you for evaluating the testimony of any other witness.

Instruction No. 5

As jurors, you have a duty to discuss the case with one another and to deliberate in an effort to reach a unanimous verdict. Each of you must decide the case for yourself, but only after you consider the evidence impartially with your fellow jurors. During your deliberations, you should not hesitate to reexamine your own views and change your opinion if you become convinced that it is wrong.

However, you should not change your honest belief as to the weight or effect of the evidence solely because of the opinions of your fellow jurors, or for the mere purpose of returning a verdict.

Instruction No. 6

Upon retiring to the jury room for your deliberation of this case, your first duty is to select a presiding juror. It is his or her duty to see that discussion is

carried on in a sensible and orderly fashion, that the issues submitted for your decision are fully and fairly discussed, and that every juror has an opportunity to be heard and to participate in the deliberations upon each question before the jury.

You will be furnished with all of the exhibits admitted into evidence, if any, these instructions, and a verdict form.

You must check the “not guilty” or “guilty” box provided in the verdict form according to the decision you reach.

Since this is a criminal case, each of you must agree for you to return a verdict. When all of you have so agreed, fill in the verdict form to express your decision. The presiding juror will sign it and notify the bailiff, who will conduct you into court to declare your verdict.

Text 5. Common Defenses to Criminal Charges

Here are a handful of ways in which a defendant might get off the hook:

To convict a criminal defendant, the prosecutor must prove the defendant guilty beyond a reasonable doubt. As part of this process, the defendant is given an opportunity to present a defense. A defendant may mount a defense by remaining silent, not presenting any witnesses and arguing that the prosecutor failed to prove his or her case. Frequently, this is the best and strongest way to proceed. But there are many other types of defenses, from “I didn't do it” to “I did it, but I was too drunk to know what I was doing.”

All people accused of a crime are legally presumed to be innocent until they are convicted, either in a trial or as a result of pleading guilty. The presumption of innocence, coupled with the fact that the prosecutor must prove the defendant's guilt beyond a reasonable doubt, makes it difficult for the government to put people behind bars.

Sometimes, however, a defendant can avoid punishment even if the prosecutor shows that that the defendant did, without a doubt, commit the act in question.

Self-Defense

Self-defense is a defense commonly asserted by someone charged with a crime of violence, such as battery, assault with a deadly weapon or murder. The defendant admits that he/she did in fact commit the crime, but claims that it was justified by the other person's threatening actions. The core issues in most-self-defense cases are:

Who was the aggressor?

Was the defendant's belief that self-defense was necessary a reasonable one?

If so, was the force used by the defendant also reasonable?

Self-defense is rooted in the belief that people should be allowed to protect themselves from physical harm. This means that a person does not have to wait until he/she is actually struck to act in self-defense. If a reasonable person in the same circumstances would think that he/she is about to be physically attacked, he/she has the right to strike first and prevent the attack. But he/she cannot use more force than is reasonable - if he/she does, he/she may be guilty of a crime.

The Insanity Defense

The insanity defense is based on the principle that punishment is justified only if the defendant is capable of controlling his or her behavior and understanding that what he or she has done is wrong. Because some people suffering from a mental disorder are not capable of knowing or choosing right from wrong, the insanity defense prevents them from being criminally punished.

Despite its ancient origins - (England, 1505), the insanity defense remains controversial. Victim-oriented critics point out that a person killed by an insane person is just as dead as a person killed by someone who is sane, and argue that people should be punished for the harm they cause, regardless of their mental state. Critics also question the ability of psychiatrists, judges and jurors to determine whether a person genuinely suffers from a mental disorder, and to link mental disorders to the commission of crimes.

Defendants found not guilty by reason of insanity are not automatically set free. They are usually confined to a mental institution until their sanity is established. These defendants can spend more time in a mental institution than they would have spent in prison had they been convicted. An insanity defense normally rests on the testimony of a psychiatrist, who testifies for the defendant after examining him and his past history, and the facts of the case. Courts appoint psychiatrists at government expense to assist poor defendants who cannot afford to hire their own psychiatrists. Once a defendant raises his or her sanity as a defense, he or she must submit to psychological tests conducted at the behest of the prosecution. This can be a very painful and humiliating experience, one that many defendants choose to forego rather than rely on the insanity defense.

The Influence of Drugs or Alcohol

Defendants who commit crimes under the influence of drugs or alcohol sometimes argue that their mental functioning was so impaired that they cannot be held accountable for their actions. Generally, however, voluntary intoxication does not excuse criminal conduct. Defendants know (or should know) that alcohol and drugs affect mental functioning, and thus they should be held legally responsible if they commit crimes as a result of their voluntary use.

Some states allow an exception to this general rule. If the defendant is accused of committing a crime that requires “specific intent” (intending the precise consequences, as well as intending to do the physical act that leads up to the consequences), the defendant can argue that he was too drunk or high to have formed that intent.

This is only a partial defense, however, because it doesn't entirely excuse the defendant's actions. In this situation, the defendant will usually be convicted of another crime that doesn't require proof of a specific intent. For example, a defendant may be prosecuted for the crime of assault with specific intent to kill but only convicted of assault with a deadly weapon, which doesn't require specific intent.

The Alibi Defense

An alibi defense consists of evidence that a defendant was somewhere other than the scene of the crime at the time it was committed. For example, assume that Freddie is accused of committing a burglary on Elm Street at midnight on Friday, September 13. Freddie's alibi defense might consist of testimony that at the time of the burglary, Freddie was watching Casablanca at the Maple Street Cinema.

Alibi is a perfectly respectable legal defense. Yet to some people the term connotes a phony defense. Defense attorneys usually are careful to remind jurors that alibi is simply a legal term referring to evidence that a defendant was elsewhere at the time a crime was committed, and that it in no way suggests falsity.

Entrapment

Entrapment occurs when the government induces a person to commit a crime and then tries to punish the person for committing it. However, if a judge or jury believes that a suspect was predisposed to commit the crime anyway, the suspect may be found guilty even if a government agent suggested the crime and helped the defendant to commit it.

Text 6. Killers to Lose Double Jeopardy

People cleared of murder could face a retrial after a relaxation of the *double jeopardy* principle.

Ministers are expected to adopt the reform against the wishes of some lawyers and judges who oppose erosion of the centuries-old principle on grounds of civil liberties.

The law reform body recommends that there be an exception to the principle in murder cases only. It recognizes the “fundamental importance” of the general rule and recommends that it be put on a statutory basis.

However, it says that the Court of Appeal should have the power to squash an acquittal where there is “reliable and compelling new evidence of guilt and a retrial would be in the interests of justice”. New evidence would be “compelling” only if it made guilt highly probable.

The new evidence would be looked at in the context of the original trial. “For instance, DNA evidence that the defendant was at the scene of the crime is obviously more compelling if he denied ever having been there than if he admitted being there but denied the murder.” The new exception would apply equally to acquittals that had occurred before the law came into effect.

The commission also calls for a prosecution right of appeal against rulings by judges that there is no case to answer.

Judge Alan Wilkie, QB, the Law Commissioner in charge of criminal law, said that the proposals recognized the need to “enhance public confidence in the criminal justice system by enabling manifestly questionable acquittals in serious cases to be called into question”. They took account of the principle that the state should not pursue a person found guilty after due process.

The Bar Council said that relaxing double jeopardy rule was likely to create uncertainty and lead to sloppy investigations and could breach the Human Rights Act.

Roy Amlot, QC, Bar chairman, said: “It has always been the case that once an offence has been investigated and there’s been a jury verdict, that is it.” Otherwise, he said, there was no finality in the system, which was unfair on the accused.

The Law Society welcomed the commission’s “measured approach”. Michael Napier, its president, said it was “not fundamentally opposed to changing the law but unsure as to how a person’s right to a fair trial will be guaranteed”.

by Frances Gibb, Legal Editor

UNIT IV. TIES THAT BIND

Text 1. Some Family Law Issues

Betrothal

Betrothal is an engagement or formal agreement to marry, which may take the form of a verbal promise or a written contract between two individuals. Betrothal is an ancient custom dating from biblical times when marriages were arranged by one's parents or guardians. During the Middle Ages arranged betrothals were used to strengthen royal dynasties, establish diplomatic alliances, and increase estates and fortunes. Until recent times, it remained common for parents to arrange marriages in much of the world, especially the Eastern and Muslim countries. In some societies, the custom still exists.

Although today men and women usually choose their own marriage partners, certain betrothal customs persist. The most popular is the giving of an engagement ring as a token of the promise to wed.

Marriage

Marriage is a socially recognized and approved union between individuals, who commit to one another with the expectation of a stable and lasting intimate relationship. It begins with a ceremony known as *a wedding*, which formally unites the marriage partners. A marital relationship usually involves some kind of *contract*, either written or specified by tradition, which defines the partners' rights and obligations to each other, to any children they may have, and to their relatives. In most contemporary industrialized societies, marriage is certified by the government.

In addition to being a personal relationship between two people, marriage is one of society's most important and basic institutions. Marriage and family serve as tools for ensuring social reproduction. Social reproduction includes providing food, clothing, and shelter for family members; raising and socializing children; and caring for the sick and elderly. However, in contemporary industrialized societies, marriage functions less as a social institution and more as a source of intimacy for the individuals involved.

Conventions and Taboo in Marriage

Marriage is a part of a society's kinship system, which defines the bonds and linkages between people. The kinship system also dictates who may or may not marry depending on those bonds. In some cultures people may only

marry partners who are members of the same clan - that is, people who trace their ancestry back to a common ancestor. This practice of marrying within one's group is called *endogamy*. *Exogamy*, on the other hand, refers to the practice of marrying outside of one's group - for example, marrying outside one's clan or religion.

One rule shared by virtually all societies is the taboo against incest-sexual relations between two closely related individuals. Definitions of which relationships are close enough to trigger this taboo vary a great deal, depending on the society. In most cases the prohibition applies to relationships within the biological nuclear family: mother and son, father and daughter, or brother and sister. The prohibitions on incest and the rules for marriage do not necessarily coincide. A few societies constitute exceptions to the general rule against incest. In ancient Egypt brother-sister marriage and sexual intimacy was permitted in the royal family, probably to maintain the "purity" of the royal bloodlines.

An Alternative to Marriage

Although marriage in contemporary industrialized societies usually requires religious or legal recognition, or both, some couples may live together as if they are married and not seek formal approval of their union. In recent years, living together as an unmarried couple, known as *cohabitation*, has become a widespread practice. In the United States roughly half of all newlyweds have lived together before marriage. Some jurisdictions legally recognize *common law marriage*. Laws in such places consider couples married if they have lived together for a certain length of time.

Certain Scandinavian countries have legalized *homosexual marriage*, although such marriages do not entail the full array of rights to which *heterosexual* married couples are entitled. In the United States and Canada, marriage between partners of the same sex is not legally recognized. Homosexual "marriage" provokes intense political controversy. Although same-sex marriages are not legally recognized in the United States, an increasing number of local governments and private corporations recognize domestic partnerships for both homosexual and heterosexual unmarried couples. Despite increasing acceptance, domestic partnerships have not been accorded the broad social and legal approval that marriage generally receives.

In the Case of Divorce

In the case of divorce, generally, the court having jurisdiction of the divorce proceedings also determines who shall have custody of children from the marriage. The authority to do so is considered part of the original

jurisdiction of the court, and not as a new authority being conferred upon them. Under the common statutory provision, the parents of a child born within a marriage are joint guardians of that child and the rights of both parents are equal - each parent has an equal right to the custody of the child when they separate.

There are two types of divorce - absolute and limited. An absolute divorce, (also called a *divorce a vinculo matrimonii* is a judicial termination of a marriage based on marital misconduct or other statutory cause arising after the marriage ceremony. As a result of an absolute divorce both parties' status becomes single again.

Several jurisdictions' statutes authorize limited divorces, or *divorce a mensa et thoro*. The consequences of limited divorces vary from state to state. Typically, a limited divorce is commonly referred to as a separation decree; the right to cohabitation is terminated but the marriage is undissolved and the status of the parties is not altered.

Many states have enacted what is called *no-fault* divorce statutes. This is a response to outdated common law divorce which required proof in a court of law by the divorcing party that the divorcee had done one of several enumerated things as sufficient grounds for the divorce. This entailed proving that the spouse had committed adultery, or some other unsavory act. No-fault divorce eliminates this potentially embarrassing and undesirable requirement by providing for the dissolution of a marriage on a finding that the relationship is no longer viable. It is hard to tell whether no-fault divorce statutes are the cause or an effect of the rising national divorce rate in America.

Annulment

Annulment of marriage, in law, is the determination by a court that a supposed marriage was never legally valid. Annulment, also called *nullity* of marriage, is distinguished from divorce, which is the action of a court in terminating a valid marriage.

Marriages subject to annulment proceedings are classified as “void” or “voidable.” A *void* marriage is one that is deemed invalid in all respects. Examples of void marriages include those involving incest or bigamy.

A *voidable* marriage occurs when some defect exists in the contractual agreement in which all marriages originate. Examples are marriages of the underaged or the insane or a marriage procured by fraudulent means. A voidable marriage may be annulled only in a lawsuit brought by the aggrieved party directly against the guilty party. In practice, voidable marriages are valid until annulled, and any children are legitimate.

Text 2. Applying for a Marriage License in Canada

- The Marriage Act requires that you obtain a Marriage License before getting married in British Columbia (Canada). The license does not mean that you are married, but that you may get married any time during the three-month term of the license.
- The bride or groom must apply in person to the Marriage License Issuer in your community. Only one member of the couple needs to apply for the license, but you will be asked to provide identification for both the bride and the groom. Information required with identification will include:
 - Full name, including given names
 - Birth date and birth place
 - Marital status
 - Current address
- A fee must be paid at the time of application.
- The license will be issued at the time of application, and is valid for three months from the time of issuance.

Who can get married?

- Anyone over 19 years of age is eligible to apply for a marriage license in British Columbia.
- Anyone under 19 years of age must first obtain the consent of both parents.
- No one under the age of 16 years can be married without the consent of the Supreme or County Court.
- You do not have to be a B.C. resident in order to be married here, but the license is only valid in this province.
- Blood tests are not required under B.C. legislation.
- If one or both of the intended parties was recently divorced (within the last 31 days), proof of divorce must be provided.
- No license may be issued until a divorce has been finalized by the courts.

The Marriage Ceremony

- In B.C., couples can choose a religious or civil ceremony. Either type of ceremony must be witnessed by two people.
- Religious ceremonies are performed by a religious representative of your choice, as long as they are registered with the British Columbia Vital Statistics.
- Civil ceremonies are performed by Marriage Commissioners, who are appointed by the Executive Director of Vital Statistics.

Which name can you use?

- After marriage, you gain the right to use your spouse's surname. You can choose to continue using your own surname. This does not result in a legal change of name, or in any automatic change to birth records, and you can decide to return to your own surname at any time.
- To use hyphenated surnames a legal change of name is required.

Registering the Marriage

- The religious representative or Marriage Commissioner who performs the wedding ceremony will also help to complete the necessary Marriage Registration Form.
- This form is then sent within 48 hours of the marriage ceremony by the religious representative or Marriage Commissioner to the Vital Statistics Agency, where the marriage is registered and a legal record is kept.

Proof of marriage

- At the time of the ceremony, your Religious Representative or Marriage Commissioner may provide you with a statement of marriage. This interim document can be used temporarily to prove that you are married.
- After the marriage, and following the receipt and registration of the Marriage Registration Form, a permanent Marriage Certificate will be automatically mailed to the bride and groom.

Text 3. To Intervene or Not to Intervene?

When they think the punishment of a child in public has gone too far, some people employ “hate stares”, a few others search for help from someone in charge, but only minority initiate a face-to-face encounter.

Child Punishment and Public Intervention

Within the family system, where the traditional parent role includes the right to exercise control over children, parental force is legally protected so long as it is noninjurious and “reasonable”. Physical punishment is practiced by the vast majority of parents with the prevailing attitude being that slapping and spanking children is natural, normal, and necessary.

While no one is in favour of “too much punishment”, there is no clear cutting point between acceptable and excessive levels. It is widely recognized that cultural standards of abuse are varied, legal criteria are ambiguous,

professional definitions are problematic, and labeling is selective. These uncertainties pose a vast array of emotional, relational, medical, and legal issues for parents, children, agencies, communities, institutions, and strangers – issues made more complex as more phenomena are regarded as maltreatment.

Location

According to the data for the study of child punishment, this kind of thing – public punishment of a child – happens in grocery stores. Markets are, in fact, the most common location, but department stores and shopping malls are also common. Less often, people intervene in parks, in parking lots, on city sidewalks, in waiting rooms, in restaurants, on a bus, and in a church.

According to the interviewees, the encounter does not usually involve anyone but the intervener and punitive parent. Several interveners had their own children with them at the time.

Scenes and Reaction

Two observational studies indicate public punishment situations are short lived, with most hitting episodes involving a single hit in the absence of crying or complaining by the child, or yelling or explaining by the adult. Even with multiple hits and the use of objects, the application of force lasts only a couple of seconds. From an audience standpoint, the low visibility of the scene could easily make intervention seem “unnecessary”.

When interveners chance across punishment situations, what do they see that leads them to step in and speak up? Most interveners say they witnessed something more than a mild spanking. In fact, only two interviewees described scenes in which the only force was a simple spank on the bottom. A few children were slapped on the hands, but repeatedly. In rough behavioral terms, half the interviewees say they saw adults hitting children hard or repeatedly with their hands. In one out of the five interventions the parents used a belt or switch. In over a fourth of the instances, interviewees said the child was hit on the face or head.

Most interveners say they did not think much about whether to intervene, but instead, they found themselves “stepping over” and “stepping in”, the words “just coming out” of their mouths. Several described the actions as having been “instinctive” or “a matter of reflexes.”

Several watched as the adult continued to hit the child repeatedly, sometimes rapid-fire and sometimes spread out over a period of time. For these people, their comments suggest the building of *intervention momentum* in which they tolerated the initial hitting, hoping it would stop. After seconds,

or minutes or heightening tension, they reach a point where, as they put it, they just had to say something.

Most interveners were bothered more by the manner, style, and context of what the adult did than by the fact the child was being physically punished, even though nearly half the interveners believed that no physical punishment is acceptable. They cited the facts that the adult used an object, hit the child in the face, did not stop after the first hit, or scowled and yelled angrily while hitting. Others felt the punishment did not fit the infraction or were dismayed that the parent would hit the child for failing to stop crying after a preceding hit. Interveners chance across the punishment scene, step from the public audience role, and then typically, enter into unsubtle debates, disputes, and arguments over the deviant import of the situation.

by Phillip W. Davis

Text 4. Court Orders Return of Net Adoption Girls

A judge has ruled that the twins caught in an international Internet adoption battle be returned to the United States so that the dispute can be settled in the home city of their natural parents.

The eight-month-old girls, sold twice over the Internet and currently being cared for by the British social services, should be returned to St Louis, Missouri, according to the court order, but the British courts have jurisdiction over the case and would have to agree to send the girls back. The biological parents are preparing to fight each other for custody.

Tranda and Aaron Wecker, the natural parents, both appeared at the custody hearing in St Louis Circuit Court. The court released no details of the judge's decision because the case is sealed, but separate lawyers for Ms Wecker and the girls said afterwards that the court officials are to talk to their counterparts in Britain and in Arkansas, where the British couple, Judith and Alan Kilshaw adopted the twins and where an action is under way to prove that the adoption was fraudulent.

Ms Wecker, who agreed her babies being sold first to Richard and Vickie Allen, a Californian couple, and then to the higher-paying Kilshaws, is now anxious to have the girls back, said her lawyer. "She did not have a job before," Gloria Allred said. "She has one now. She wants the babies back in her arms. She can be a loving mother. She was before and she will be again."

She said that her client did not sell the babies, but declined to discuss how the twins were sold without the mother's consent.

Another St Louis judge awarded Mr Wecker temporary custody of the twins, although the ruling was meaningless because the girls remained in foster care. Mr Wecker agreed to surrender that temporary custody in what lawyers described as a procedural move aimed at speeding along the process of getting along the case brought to St Louis.

The girls, named Kiara and Keyara by the Weckers, were born on June 26 in St Louis. The Weckers separated a short time later.

by Damian Whitworth in Washington

Text 5. Parents Oppose Graphic Sex-Ed Class

Lawsuit filed to stop implementation of pro-gay curriculum

Irate parents in Montgomery County, Md., have filed a lawsuit to stop their children from being subjected to a graphic, pro-homosexual sex education class that charges Christians with fostering hatred and oppression. How bad is the curriculum, pulled together from several pro-gay programs already in place around the country? A video accompanying it informs students that “buying condoms isn't as scary as you might think,” then adds, “Sometimes it is hard to choose, though, and it can be a little overwhelming at first.” It then offers suggestions for how to choose the “right condom” - in the most graphic terms possible.

Mat Staver, chief counsel of the religious-liberties law firm Liberty Counsel, brought the suit on behalf of concerned parents. “This curriculum is one of the most liberal, pro-homosexual agendas I've ever seen in the public schools,” he said. “This curriculum has such things as the following, and I'm quoting. *Jesus said nothing about homosexuality.*” And that's just one example, which Montgomery County school board member Charles Haughey brushes aside in defending the curriculum. “One of the benefits of this curriculum,” he said, “is that it does give youngsters a realistic view of the variety of the orientations that people have.” But parent Michelle Turner, who has four children attending district schools, doesn't want her kids to be forced to learn about such “variety.” “We're hoping for a stay for the pilot program,” she said, “and that the board of education would meet with us.”

by Steve Jordahl, correspondent

KEY SECTION

Unit I. Living by Law

- 2.1:** 1-b; 2-d; 3-f; 4-c; 5-a; 6-e; 7-g
- 2.2:** 1-f; 2-c; 3-b; 4-a; 5-d; 6-e
- 2.3:** 1 backed, state; 2 varied; 3 change; 4 prescriptive, precise; 5 informal; 6 practical; 7 control, justice, common sense
- 2.4:** 1-c; 2-f; 3-d; 4-e; 5-g; 6-b; 7-a
- 2.5:** 1 principles; 2 universal; 3 explain; 4 universe; 5 rational; 6 economics; 7 fields; 8 observations
- 2.6:** 1-b; 2-a; 3-c; 4-e; 5-f; 6-d
- 3.2:** 1-d; 2-e; 3-a; 4-g; 5-i; 6-f; 7-c; 8-h; 9-b

Unit II. The Law and Young People

- 2.3:** Ways of treating juvenile offenders: corrective treatment, incarceration, rehabilitative therapy, special educational programming, individualized diagnosis; a person under legal age: a minor, an infant, an underage person; types of offences: a) status offences (truancy, bullying, parental disobedience, underage drinking); b) delinquent acts (shoplifting, mugging)
- 2.4:** a-an infant; b-a delinquent act; c-a status offence; d-bullying; e-truancy; f-legal age, underage
- 2.5:** a-bring out the best in sb; b-put up with; c-take after; d-set fire to; e-bring up; f-set a good example; g-get away with; h-get on
- 2.6:** a-6; b-2; c-1; d-8; e-3, f-5; g-7; h-4
- 3.1:** 1-unwanted; 2-of shame; 3-of tender years; 4-self-willed; 5-mischievous; 6-of nature; 7-natural; 8-of fortune; 9-mistreated; 10-problem; 11-neglected

3.1.1: 1-d; 2-a; 3-b; 4-e; 5-c

3.3: 1-unbearable; 2-abuse; 3-crisis; 4-residential; 5-foster care;
6-knowledgeable; 7-adjudicated; 8-chronic; 9-aftercare;
10-accountability; 11-adjustment; 12-monitors; 13-discharged

3.3.1: a-3; b-7; c-1; d-4; e-2; f-6; g-5

3.3.2: 1-Shelter Care; 2-Detention; 3-Short-Term Secure Care; 4-Diagnostic Program

3.4.1: 1925-1942-Silent G; 1946-64-Baby Boomers; 1965–75-Gen. X/Baby Busters; 1976/81-Gen. Y; 1990s-Millennia

Unit III. Fair Trial

2.1: 1-b; 2-e; 3-c; 4-a; 5-f; 6-d

2.2 a) He who excuses himself – accuses himself – тот, кто извиняется, сам себя винит; b) Never ask pardon before you are accused – не извиняйся, пока тебя не обвинят; c) Circumstances alter cases – обстоятельства меняют дело; d) A fraud confessed is half redressed – признать ошибку, значит наполовину исправить

2.3: 1-c; 2-e; 3-d; 4-f; 5-b; 6-a; 7-h; 8-g

2.4: civil trial: f; criminal trial: k, h, l; both: a, b, c, d, e, g, i, j

2.4.1 1-a judge, court, points of law, judgement; 2-a plaintiff/government/the Crown, case/lawsuit, 3-a prosecutor, accused/defendant, court;

4-defendant, civil lawsuit, criminal lawsuit; 5-witness, court; 6-a counsel, trial; 7-jury, verdict

2.4.2: 1-f; 2-b; 3-d; 4-e; 5-a; 6-c; 7-g

2.5: a-an indictment; b-an information; c-affidavit; d-deposition; e-pleading; f-injunction; g-a verdict; h-judgment; i-a motion

2.6: 1-b; 2-c; 3-a; 4-d; 5-b; 6-b; 7-c; 8-b; 9-d; 10-a; 11-b

2.6.1: 1-a demand letter; 2-a complaint; 3-deposition; 4-interrogatories; 5-settlement; 6-mediation or arbitration; 7-motions; 8-trial

2.6.2: 1-Initiation of Prosecution; 2-Arraignment and Bail; 3-Discovery and Motions; 4-Disposition; 5-Sentence; 6-Punishment; 7-Appeals

2.7: 1-a; 2-a; 3-b; 4-a; 5-d; 6-a; 7-b

3.1: 1-d; 2-a; 3-e; 4-b; 5-g; 6-h; 7-c; 8-f

3.2 1-d; 2-b; 3-a; 4-e; 5-c

Unit IV. Ties That Bind

2.2: 1-b; 2-h; 3-f; 4-e; 5-a; 6-g; 7-c; 8-d

2.3: 1-keep in touch with; 2-grow up; 3-let him down; 4-go out; 5-fall out with; 6-ran away with; 7-split up with; 8-make it up; 9-get on well with

2.4: 1-c; 2-a; 3-c; 4-d; 5-b; 6-a; 7-b; 8-a; 9-d; 10-d

2.5: 1-ambition; 2-putting; 3-fall; 4-youth; 5-liberal; 6-pressures; 7-managed; 8-way; 9-get; 10-determined

2.6: **a**-arranged, alimony; **b**-bachelor; **c**-cohabitation; **d**-divorcee; **e**-endogamy, exogamy; **f**-fostering; **h**-heir, half-brother; **i**-in-laws; **j**-“just married”; **l**-legitimate; **m**-marital; **n**-nullify; **o**-orphan; **p**-partner, prenuptial; **r**-reception; **s**-spouse; **t**-twin brother/sister; **u**-unattached; **v**-void, voidable; **w**-widower; **x**-ex.

3.1: 1-shot gun marriage; 2-bread-and-cheese; 3-marriage of convenience; 4-left-hand~; 5-plural ~; 6-unequal ~; 7-broken ~; 8-Scotch ~

3.2: opposite: 1,5; 2, 4; similar: 3, 6

3.3: 1-d; 2-e; 3-a; 4-f; 5-c; 6-b

3.7: 1-c; 2-g; 3-d; 4-f; 5-h; 6-b; 7-a; 8-e

REFERENCE LIST

1. Acklam R. Advanced Gold. Longman, 2001
2. Burgess S. Advanced Gold Exam Maximiser. Longman, 2001
3. Clapp J.E. Legal Dictionary, New York, 1998
4. Collis H. Understanding Language and Culture through Superstitions. Lincolnwood, Illinois, 1998
5. Johnson D. The Consumer's Guide to Understanding and Using the Law. Ohio, 1994
6. Merriam-Webster's Dictionary of Law. Springfield, Massachusetts, 1996
7. Numrich C. Face the Issues. Longman, 2004
8. Rice. J. Class Lectures for Sociology, 1995
9. Spears R.A. Essential American Idioms for Russian Speakers. Lincolnwood, Illinois, 1997
10. Vince N. Advanced Language Practice. Heinemann, 2000
11. Electronic Encyclopedias:
Britannica 2004
Microsoft Encarta 2000
12. Magazines:
Sociology Incorporating. Vol.10, #1, 2000
Social Problems. #38, 1991
13. Newspapers:
The Times. Law. UK
The Sun. USA

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