

МИНИСТЕРСТВО СЕЛЬСКОГО ХОЗЯЙСТВА  
РОССИЙСКОЙ ФЕДЕРАЦИИ

ФГБОУ ВО «Кубанский государственный аграрный  
университет имени И. Т. Трубилина»

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## ГРАММАТИЧЕСКИЙ СПРАВОЧНИК ИНФИНИТИВ, ГЕРУНДИЙ, ПРИЧАСТИЕ

В английской грамматике проводятся различия между личными и неличными формами глагола. К последним относятся **инфинитив, герундий, причастие**.

Неличные формы сочетают глагольные свойства со свойствами других частей речи и выполняют в предложении синтаксические функции этих частей речи.

Неличные формы глагола обладают категорией времени, но в отличие от личных форм, которые выражают время по отношению к моменту речи, неличные формы выражают время по отношению к моменту действия, выраженного глаголом в личной форме.

Неличные формы вызывают трудности при переводе на русский язык. Данное пособие направлено на преодоление вышеуказанных трудностей.

Неличные формы глагола можно представить в следующей таблице.

<b>Инфинитив В (The Infinitive)</b>	<b>Причастие II (The Past Participle)</b>	<b>Причастие I (The Present Participle)</b>	<b>Герундий (The Gerund)</b>
to V to do (делать)	V+ed(3формаглагол) done (сделанный)	V+ing doing (делающий)	(with) V+ing (with) doing (при делании)
to translate (переводить)	translated (переведенный)	translating (переводящий)	with translating (при переводе)

## ПРИЧАСТИЯ I, II. ПРИЧАСТНЫЕ ОБОРОТЫ

Причастие обладает свойствами глагола и прилагательного.

### Функции причастия в предложении.

#### Функция определения

Причастия в функции определения стоят до или после определяемого существительного и отвечают на вопрос *какой?* Причастия переводятся соответствующей формой русских причастий:

I enjoy looking at flying birds.

*Мне нравится смотреть на летающих птиц.*

The flying birds made a lot of noise.

*Пролетающие птицы создавали много шума.*

The girl speaking to my mother is my classmate.

*Девочка, разговаривающая с моей мамой, моя одноклассница.*

The student being examined studies law.

*Экзаменуемый студент изучает право.*

Студент, которого экзаменуют, изучает право.

The fixed car was returned to the client.

*Отремонтированная машина была возвращена клиенту.*

The machine parts lie on a moving platform.

*Детали машины лежат на движущейся платформе.*

All moving parts of machines wear.

*Все движущиеся части машины изнашиваются.*

The substance being investigated is first weighed.

*Исследуемое вещество сначала взвешивается.*

A broken device was substituted by a new one.

*Сломавшийся (сломанный) прибор был заменен новым.*

Cosmic rockets launched with first space velocity become artificial satellites of the Earth.

*Космические ракеты, запущенные с первой космической скоростью, становятся искусственными спутниками земли.*

Причастия в функции определения, стоящие в английском языке после определяемого существительного, при переводе ставятся перед определяемым словом: The results achieved were thoroughly investigated.

*Полученные результаты были тщательно исследованы.*

Стоящие после определяемого существительного страдательные причастия от глаголов involve — вовлекать, включать, повлечь (за собой) и concern — касаться, интересоваться, заниматься переводятся *данный, рассматриваемый*:

The properties of the substances involved are as yet not clearly understood.

*Свойства данных (рассматриваемых) веществ до сих пор еще не ясно поняты.*

Часто из текста ясно, во что *включено, вовлечено* и т. д. определяемое существительное; это необходимо отразить в переводе:

The phenomenon is rather complicated and the processes involved are not yet clear.

*Это явление весьма сложное, и связанные с ним процессы еще не ясны*

### **Функция обстоятельства**

В функции обстоятельства причастие можно перевести деепричастным оборотом, придаточным или самостоятельным предложением (последнее, если причастие выступает в функции сопутствующего обстоятельства) или иным способом, в зависимости от сочетаемости слов в русском языке. В функции обстоятельства Причастие I может предшествовать подлежащему или стоять после сказуемого.

Approaching this village I thought about my childhood.

*Подходя к этой деревне, я думала о своем детстве.*

Being asked what he thought of the method, the engineer approved of it.

*Когда инженера спросили, что он думает об этом методе, он его одобрил.*

Working with machines, sharp tools, motors, and electricity one must always be careful.

*Работая с машинами, острыми инструментами, моторами и электричеством, мы должны быть осторожны.*

Being adopted in the field of foreign trade relations these decisions are of great importance.

*Так как эти решения были приняты в сфере международной торговли, то они представляют собой особую важность.*

**Перфектные причастия подчеркивает последовательность протекания событий:**

Having crossed the bridge we turned to the right.

*Пройдя по мосту, мы повернули направо.*

Having thus finished his task the speaker smiled and waited for comments.

*Закончив таким образом свое сообщение, докладчик улыбнулся и стал ждать выступлений.*

Перфектные причастия страдательного залога используются не только для указания последовательности действий, но и для указания причинно-следственных связей.

Having been examined by the customs the goods were let through.

*После проверки на таможне товары были отправлены.*

Having been warmed to zero ice began to melt.

*Будучи нагретым до нуля, лед начал таять.*

При переводе английского причастия в функции обстоятельства не следует злоупотреблять русской деепричастной формой *будучи, являясь*. Норма русского языка заставляет передавать английские обстоятельственные причастные обороты придаточным предложением с союзами:

*поскольку, так как и др.* или самостоятельным предложением с союзом *причем*.

Viewed from the tower the city is very impressive.

*Город производит большое впечатление, если смотреть на него с башни.*

Operated properly such buses can transport more people.

*При неправильном управлении, такие автобусы могут перевезти больше людей.*

Причастие II (иногда причастие I), в зависимости от союза, за которым оно следует, может передавать также и другие обстоятельственные значения. Так, например, в сочетании с союзом **if** или **unless** причастие передает значение обстоятельства условия; после союза **though** — значение обстоятельства уступки. Такие причастные обороты переводятся на русский язык придаточными предложениями.

If reconstructed, this building will be in use for many years.

*Если это здание отреставрировать (будет отреставрировано), оно прослужит много лет.*

## Причастные обороты

### Определительный причастный оборот

Стоит, как правило, после определяемого существительного и отвечает на вопрос «какой?» и переводится на русский язык причастным оборотом, соответствующей формой причастия или определительным придаточным предложением

We are going to study mechanisms underlying this phenomenon.

*Мы собираемся изучать механизмы, лежащие в основе этого явления.*

We can use the method suggested by Corner.

*Мы можем использовать метод, предложенный Корнером (который предложил Корнер).*

## Обстоятельственный причастный оборот

Характеризует сказуемое и отвечает на вопрос «*когда, почему, как?*».

Английские обстоятельственные причастные обороты переводятся на русский язык деепричастным оборотом, группой отглагольного существительного с предлогом *при*, обстоятельственным придаточным предложением.

Reading this book the student found out many interesting things.

*Читая эту книгу, студент обнаружил много интересного.* Being put into operation, the factory began to produce new lorries.

*После того как завод привели в действие, он начал выпускать новые грузовики.*

Considered from this point of view the question will be of great interest.

*При рассмотрении с этой точки зрения, вопрос представляет большой интерес.*

*Если вопрос рассматривать с этой точки зрения, он представляет большой интерес (он кажется весьма интересным).*

*Будучи рассмотрен с этой точки зрения, вопрос представит большой интерес (окажется весьма интересным).*

Having made the measurements the experimenter then processed the data.

*Проведя измерения, экспериментатор затем обработал данные.*

*После того как экспериментатор провел измерения, он обработал данные.*

Having been rejected by the publishers several times, the story was accepted by a weekly magazine.

*Будучи отвергнутым издателями несколько раз, рассказ был принят еженедельным журналом.*

*После того как рассказ был отвергнут издателями  
несколько раз, он был...*

## Объектный причастный оборот (сложное дополнение)

Объектный причастный оборот употребляется после глаголов выражающий восприятие посредством органов чувств *to see, to watch, to hear*, глаголами умственной деятельности *to know, to think* и глаголами желаний *to like, to love* и представляют собой сочетание существительного в общем падеже или местоимения в косвенном падеже с причастием (имя+причастие). Обычно переводится на русский язык придаточным предложением, вводимым союзами *как, что* или *чтобы*.

I heard our names mentioned.

*Я слышал, как (что) упомянули наши имена.*

They watched the temperature gradually rising.

*Они следили за тем, как постепенно повышалась температура.*

I do not want the problem being tasked at the meeting.

*Я не хочу, чтобы эта проблема затрагивалась на собрании.*

We know him having been working at this problem since 2000.

*Мы знаем, что он работает над этой проблемой с 2000года.*

They thought the reaction having been finished.

*Они думали, что реакция уже закончилась.*

## Каузативный или побудительный, оборот.

После глаголов **to have** и **to get** объектный причастный оборот (**have/get+ имя-/-причастие**) образует так называемую каузативную, или побудительную, конструкцию, которая означает, что действие совершается не лицом, обозначенным подлежащим предложения, а кем-то другим за или для него. В русском языке нет аналогичной конструкции или специальных средств для выражения каузативности, поэтому перевод ее представляет значительную трудность, тем более,

что конкретное значение этой конструкции зависит от контекста и может быть весьма разнообразным. *The device has the lens shifted. У прибора смещены линзы.*

### Независимый причастный оборот (абсолютная причастная конструкция)

В независимом причастном обороте перед причастием стоит существительное в общем падеже или местоимение в именительном падеже. Это существительное или местоимение является субъектом действия, выраженного причастием, и не совпадает с субъектом действия, выраженного личной формой глагола. Независимый причастный оборот отделяется от главной части предложения запятой. Переводится обстоятельственным придаточным предложением с союзами *так как, после того как, когда, если* или самостоятельным предложением с союзами *а, и, причем*. Союз ставится перед существительным (местоимением), предшествующим причастию. Причастие переводится личной формой глагола в функции сказуемого, а стоящее перед ним существительное (местоимение) – подлежащим.

The students knowing English well, the examination didn't take long.

*Так как студенты знали английский язык хорошо, экзамен не занял много времени.*

Whole cities being razed to the ground during the war, the building of houses was priority number one.

*Так как во время войны целые города были стерты с лица земли (разрушены до основания), строительство домов стало первоочередной задачей.*

Независимый причастный оборот часто вводится предлогом **with**, который на русский язык обычно не переводится.

We continued our work with our laboratory assistants helping us.

*Мы продолжили нашу работу, а наши лаборанты помогли нам.*

*With water being cooled, the rate of the reaction was low.*

*Когда воду охлаждали, скорость реакции была низкой.*  
**ГЕРУНДИЙ И ГЕРУНДИАЛЬНАЯ КОНСТРУКЦИЯ**

**Особенности герундия как части речи**

Герундий в отличие от причастия обладает свойствами глагола и существительного и обозначает процесс совершения действия.

Герундий по форме совпадает со всеми грамматическими формами причастия I. Его можно отличить от причастия по следующим признакам:

– глагольная форма с окончанием *-ing* является герундием, а не причастием, если перед ней стоит предлог, существительное в родительном падеже или притяжательное местоимение;

– герундий отличается от причастия по синтаксическим функциям. В отличие от причастия он может выполнять в предложении не только функции определения и обстоятельства, но подлежащего и дополнения. Следовательно, глагольная форма с окончанием *-ing* является герундием, если она выполняет функцию подлежащего или дополнения. В тех же случаях, когда функции герундия и причастия совпадают, перед герундием стоит предлог;

– герундий переводится: неопределенной формой глагола, отглагольным существительным, деепричастием или личной формой глагола в функции сказуемого придаточного предложения, вводимого союзом *что (чтобы)* с предшествующим ему местоимением *то* в соответствующем падеже (*тем, о том* и др.).

**Формы герундия**

	<b>Active</b>	<b>Passive</b>
<b>Indefinite Perfect</b>	giving having given	being given having been given

## Функции герундия в предложении

### Подлежащее

*Serfing the Internet helps to find a lot of useful information.*

*Работа в Интернете помогает найти много полезной информации.*

*Carrying this test successfully requires careful investigations of outstanding scientists' works.*

*Для успешного проведения этого испытания требуется тщательное исследование работ выдающихся ученых.*

### Прямое дополнение

*I remember having spoken about it already.*

*Я помню, что уже говорил об этом. The turbulent flow of gases produces cooling.*

*Турбулентное течение газов вызывает охлаждение.*

### Предложное дополнение

*He insisted on taking part in the conference*

*Он настаивал на участии (на том, чтобы принять участие) в конференции. We succeeded in obtaining the desired results.*

*Нам удалось получить желаемые результаты.*

### Обстоятельство

*On coming home he always has a rest.*

*По приходе домой он всегда отдыхает. Приходя домой, он всегда отдыхает.*

*Heat maybe produced by burning coal gas or any other fuel.*

*Тепло можно получить, сжигая уголь, газ или любое другое топливо.*

Действие, выраженное перфектным герундием, относится к прошедшему времени, поэтому он переводится на русский язык личной формой глагола в прошедшем времени.

*The author reports having applied a new method.*

*Автор сообщает о том, что он применил новый метод.*

Притяжательное местоимение или существительное, стоящее перед герундием, указывает на субъект или объект действия, выраженного герундием. (В первом случае герундий имеет форму действительного залога, во втором — страдательного): *Excuse my coming late.*

*Простите мое опоздание.*

*Простите меня за то, что я пришел поздно.*

*I am surprised at his being awarded the prize. Меня удивляет, что ему дали премию.*

*He confirms having approved of this arrangement as more economical.*

*Он подтвердил одобрение этого устройства как более экономичного.*

### **Функции герундия в предложении.**

#### **Функция подлежащего**

В этой функции герундий, как правило, переводится существительным или неопределенной формой глагола.

*Meeting her seemed a good end of the day.*

*Встреча с ней казалась хорошим завершением дня.*

*Carrying out experiments is a must with every scientist.*

*Проведение опытов (проводить опыты) необходимо для каждого ученого.*

Сочетание *there is no* с герундием в функции подлежащего переводится на русский язык неопределенно-личным предложением. *There was no avoiding her now.*

Теперь встречи с ней невозможно избежать.

#### **Функция сказуемого**

В этой функции герундий употребляется после глаголов *be, stop, finish, go on, continue, keep on*, после выражения *can't*

*help*, после предлогов *against*, *by*, *for*, *in*, *through*, и прилагательного *worth*, если им предшествует глагол *to be*.

Being in love is thinking all the time about the other person.

*Быть влюбленным означает все время думать о другом человеке.*

She couldn't help laughing.

*Она не могла не рассмеяться.*

If a job is worth doing, it is worth doing properly.

*Если дело стоит делать, его стоит делать, как следует.*

### Функция обстоятельства

Герундий в функции обстоятельства всегда употребляется в сочетании с предлогом. Он может выступать в функции следующих обстоятельств:

После предлогов **before** и **in** герундий переводится обычно на русский язык придаточным предложением; после **on (upon)** и **after** – деепричастием прошедшего времени.

After reading this text he will translate it.

*После прочтения текста он будет переводить его.*

In solving problems it is necessary to distinguish between fact and hypothesis.

*При решении проблемы необходимо делать различие между фактом и гипотезой.*

*Решая проблемы, необходимо ...*

*Когда решают проблемы надо ...*

After making this statement the minister said he was not going to reconsider his decision.

*Сделав это заявление, министр сказал, что он не собирается пересматривать свое решение.*

Но могут быть и другие варианты перевода герундия в функции обстоятельства времени в зависимости от сочетаемости слов в русском языке, например сочетанием

предлога с существительным: **after (on) arriving** по прибытии, **after checking** после проверки.

**2. сопутствующего обстоятельства**, после предлогов **besides** кроме того что, **instead of** вместо того чтобы, **apart from** не говоря уже, кроме, **without** без, без того чтобы. В зависимости от предлога герундий переводится обычно на русский язык инфинитивом или придаточным предложением. С предлогом **without** герундий переводится отрицательной формой деепричастия, сочетанием предлога *без* с существительным или *без того чтобы* с личной формой глагола.

Instead of writing the letter himself he asked his friend to do it.

*Вместо того, чтобы писать письмо самому, он попросил своего друга сделать это.*

Besides being extremely unpopular this policy may lead to a complete failure of all their efforts.

*Не говоря уже о том, что эта политика не пользуется популярностью, она может привести к тому, что все их усилия окажутся напрасными.*

**3. обстоятельства образа действия**, с предлогами **in, by, without**. После предлогов **in** и **by** герундий переводится или деепричастием, или сочетанием предлогов *путем, при помощи* и т. п. с существительным, или самостоятельным предложением; с предлогом **without**— отрицательной формой деепричастия или существительным с предлогом *без*.

He improved his article by changing the end.

*Он улучшил статью, изменив конец.*

It can be done by sending deputations to MPs.

*Это можно сделать, послав депутации к членам парламента.*

He admitted that he had made a mistake in not supporting this proposal earlier.

*Он признал, что допустил ошибку, не поддержав этого предложения раньше (тем, что не поддержал ...).*

**4. обстоятельства условия**, с составными предлогами **in case of**, **in the event of** в случае если, **subject to** при условии, **without**. С предлогом **without** герундий переводится отрицательной формой деепричастия, сочетанием предлога *без* с существительным или словосочетанием *без того, чтобы* и отрицательной формой инфинитива. В остальных случаях – обычно личной формой глагола или существительным.

You will never speak good English without learning grammar.

*Вы никогда не будете говорить хорошо по-английски, не изучив грамматики (если не изучите грамматики).*

They promised not to undertake any actions without consulting their partners.

*Они обещали не предпринимать никаких действий, не проконсультировавшись (без консультации; без того чтобы не проконсультироваться) со своими партнерами.*

**5. обстоятельства причины**, с составными предлогами **owing to** из-за,  **вследствие**, **for fear of** из опасения и др.; переводится личной формой глагола, **существительным или деепричастием**.

He did not dare to make public announcements about this plan for fear of being criticized.

*Он не осмелился открыто объявлять об этом плане из опасения, что его подвергнут критике (опасаясь, как бы его не подвергли ...).*

### **Функция определения**

Герундий в функции определения обычно следует за предлогом **of** и переводится инфинитивом или существительным.

There are different ways of doing it.

*Есть разные способы сделать это.*

There is little probability of atmosphere being on that planet.  
*Маловероятно, что на той планете была атмосфера.*

### **Функции дополнения (предложного и беспредложного)**

В функции предложного дополнения герундий сочетается с очень большим количеством предлогов и, так же как и в функции беспредложного дополнения, в зависимости от его лексического значения и от сочетаемости слов в русском языке, переводится инфинитивом, существительным или придаточным предложением, вводимым словами *то, что ...* .

They succeeded in removing all the obstacles.  
*Им удалось устранить все препятствия.*  
Excuse (me) my reminding you about it.  
*Простите, что я напоминаю вам об этом.*

### **Герундиальная конструкция**

**Герундиальная конструкция** состоит из существительного в притяжательном падеже (если существительное не принимает притяжательного падежа, то оно стоит в общем падеже) или местоимения притяжательного или личного в объектном падеже.

I insist on Mary's (her) going there.  
*Я настаиваю, чтобы Мери (она) пошла туда.*

Конструкция выступает как один сложный член предложения, соответствующий по значению придаточному предложению. Герундиальная конструкция переводится на русский язык придаточным предложением, вводимым словами *то, что ...; тот факт, что ...; (с тем) чтобы ...; после того как ..., что ...* и др.

We look forward to much attention being given to this question.

*Мы рассчитываем на то, что этому вопросу будет уделено большое внимание.*

Герундиальная конструкция выступает в предложении в следующих функциях.

### **Функции герундиальной конструкции.**

#### **Сложное подлежащее**

**В некоторых случаях подлежащее вводится местоимением *it*.**

Jim's coming to that fishing village was a blessing.

*(То, что Джим приехал) Приезд Джима в эту рыболовецкую деревню было благословением.*

It is not much good my (me) coming, is it?

*Не очень хорошо, что я пришел, не так ли?*

#### **Сложное прямое дополнение**

I began to picture to myself my being found dead.

*Я начал представлять себе, как меня нашли мертвым.*

#### **Сложное предложное дополнение**

She wondered at his caring for things like that.

*Она удивлялась тому, как он может интересоваться такими вещами.*

#### **Сложное определение**

There was little likelihood of his meeting anybody at that time.

*Было маловероятно, что он мог встретить кого-то в это время.*

#### **Сложное обстоятельство**

How did you get out without his seeing you.

*Как тебе удалось уйти с тем, чтобы он не заметил тебя*

#### **Сложное сказуемое**

The only thing I'm afraid of is the family being too sure of themselves.

*Единственное, чего я боюсь, так это того, что члены этой семьи слишком самоуверенны.*

## ИНФИНИТИВ И ИНФИНИТИВНЫЕ ОБОРОТЫ

Инфинитив – это неличная форма глагола, обладающая свойствами глагола и существительного.

### Формы инфинитива

	Active	Passive
Indefinite		to be given
Continuous	to give to be giving	_____
Perfect	to have given	to have been
Perfect	to have been giving	given
Continuous		_____

### Функции инфинитива в предложении

#### Функция подлежащего

Инфинитив выполняет функцию подлежащего, если он стоит в начале предложения, где нет другого слова, которое могло бы быть подлежащим. Переводится инфинитивом или отглагольным существительным.

To teach is a difficult work.

*Обучать – трудное дело.*

To be taught something is never late.

*Обучаться чему-нибудь полезному никогда не поздно.*

Если при подлежащем, выраженном инфинитивом, сказуемое выражено глаголом-связкой be+ инфинитив то связка переводится «значит»:

To understand this phenomenon is to understand the structure of atoms.

*Понять это явление – значит понять структуру атомов.*

## Функция определения

Инфинитив в функции определения переводится на русский язык, как правило, определительным придаточным предложением с модальным глагольным сказуемым, выражающим возможность или долженствование, или же глаголом-сказуемым в будущем времени.

This question will be discussed at the conference shortly to open in Moscow.

*Этот вопрос будет обсуждаться на конференции, которая должна вскоре открыться (вскоре открывается) в Москве.*

После слова **the last** и порядковых числительных (если в данном предложении они выполняют функцию составной части сказуемого) инфинитив в функции определения переводится личной формой глагола в том же времени, что и глагол-сказуемое главного предложения.

He was the first to realize the difficulty of the situation.

*Он был первым, кто осознал трудность положения.*

Если же эти слова выполняют какую-либо другую синтаксическую функцию, то инфинитив может также переводиться причастием.

The first person to prove it was Professor Brown.

*Первым человеком, доказавшим это, был профессор Браун.*

1) Пассивная форма инфинитива в функции определения сохраняет после себя предлог, с которым употребляется данный глагол, и переводится обычно на русский язык неопределенно-личным предложением.

He is the man to vote for.

*Он тот человек, за которого мы должны голосовать.*

2) В отдельных случаях инфинитив в функции определения может переводиться причастием, прилагательным или существительным с предлогом.

The curves to be presented in Part V were obtained not long ago.

*Кривые, представленные в части V, были получены недавно.*

### **Функция дополнения**

Инфинитив в функции дополнения обычно переводится неопределенной формой глагола, иногда придаточным предложением.

*I told him to go there.*

*Я велел ему пойти туда.*

*I remember to have seen this film.*

*Я помню, что видел этот фильм.*

### **Функция обстоятельства**

Инфинитив в функции обстоятельства может стоять в начале или в конце предложения. Переводится неопределенной формой глагола с союзами *для того чтобы, с тем чтобы, для того чтобы, так чтобы.*

*He will go to the clinic tomorrow to be X-rayed.*

*Завтра он пойдет в поликлинику, чтобы сделать рентгеновский снимок.*

*To understand the text you must know all the new words.*

*Чтобы понять текст, вы должны знать все новые слова.*

**Инфинитив в функции обстоятельства может вводиться союзами *so... as***

*(to), in order (to)*

*I was silent in order to give him time to think.*

*Я молчал, для того, чтобы дать ему время подумать.*

*I hired a taxi so as not to miss the train.*

*Я взял такси с тем, чтобы не опоздать на поезд.*

## **Инфинитив в составе составного сказуемого**

**а) Инфинитив в составном именном сказуемом** употребляется в сочетании с глаголом-связкой *be*. Глагол *be* в этом случае встречается во всех временах группы Indefinite и Perfect. Глагол *be* в функции связки переводится: *заключается в том, чтобы (что), это*, а в настоящем времени часто опускается.

Our aim is to master English.

*Наша цель заключается в том, чтобы овладеть английским языком. (Наша цель – овладеть...).*

**б) Инфинитив в составном модальном сказуемом.** Глагол *be* перед инфинитивом в составном модальном сказуемом имеет модальное значение долженствования или возможности или передает сказуемому оттенок будущего времени.

*This substance is rarely to be found freely in nature.*

*Это вещество редко можно найти в чистом виде.*

## **Инфинитив как вводное словосочетание**

Инфинитив может быть в предложении **вводным элементом**: *to tell the truth... по правде говоря ...*, *to be frank... откровенно говоря...*, *to put it mildly...мягко выражаясь...* и т.п.

To put it mildly, she is just a bit inquisitive.

*Мягко выражаясь, она немного любопытна.*

## **Инфинитивные обороты**

### **Инфинитивный оборот «сложное дополнение» (Complex Object)**

Состоит из существительного в общем падеже или неопределенного местоимения или личного местоимения в

объектном падеже и инфинитива и является одновременно дополнением к сказуемому всего предложения.

We know the scientists to study this proposal thoroughly.

*Мы знаем, что этот ученый тщательно изучает это предложение.*

Experience shows this strategy to have produced better results.

*Опыт показывает, что эта стратегия приводила к лучшим результатам.*

Глаголы, после которых может употребляться сложное дополнение, выражают:

1. Умственную активность (know, believe, show, prove и др.)

2. Желание, требование (want, demand)

3. Восприятие посредством органов чувств (see, hear, feel)

They heard him deny it.

*Они слышали, как он отрицал это.*

They believed the substance to have dissolved.

*Они полагают, что вещество растворилось.*

We want them to attend the conference.

*Мы хотим, чтобы они присутствовали на этой конференции.*

### **Субъектный инфинитивный оборот**

**«сложное подлежащее»**

**(Complex Subject)**

Субъектный инфинитивный оборот состоит из подлежащего, существительного или местоимения и сложного сказуемого, состоящего из глагола в личной форме и инфинитива. Особенность оборота состоит в том, что действие, выраженное инфинитивом, относится к подлежащему, а стоящий перед ним глагол указывает на отношение к действию со стороны говорящего или вообще

неуказанного лица. При переводе на русский язык английское подлежащее переводится подлежащим, инфинитив – сказуемым, а глагол в личной форме – неопределенно-личным предложением. Глаголы, после которых употребляется этот оборот, можно разделить на три группы:

- глаголы умственной активности, употребляемые в страдательном залоге (assume, believe, suppose, announce, say)

- глаголы-характеристики, употребляемые в действительном

- залоге (seem, appear, happen, prove)

- обороты (to be likely, to be unlikely, to be sure, to be certain)

These variations were found to make little difference in the results.

*Было обнаружено, что эти изменения почти не повлияли на результаты.*

He seems to have given up this view.

*По-видимому, он отказался от этой точки зрения.*

The real situation is likely to be very complex.

*Вероятно, реальная ситуация является (будет) очень сложной.*

### **Инфинитивный оборот, вводимый предлогом for (предложный инфинитивный оборот)**

В этом обороте конструкция, стоящая за предлогом for, включает в себя существительное в общем падеже или местоимение в объектном падеже, и затем инфинитив. Он образует единое смысловое целое, где инфинитив выражает действие, субъектом которого является существительное или местоимение. Такие обороты переводятся на русский язык придаточным предложением, подлежащим которого, становится субъект действия, а сказуемым – инфинитив. Тип придаточного предложения зависит от функции, выполняемой оборотом в предложении. Чаще всего оборот употребляется в

функции обстоятельства. В таком случае, придаточное предложение вводится союзом *чтобы, для того чтобы*.

He asked for the documents to be sent to him by post.

*Он попросил, чтобы эти документы переслали ему почтой.*

There is a possibility for him to attend the conference.

*У него есть возможность присутствовать на конференции.*

For this method to be valuable it must be proved.

*Чтобы этот метод представлял ценность, он должен быть доказан.*

### **Независимый инфинитивный оборот**

Независимый инфинитивный оборот (существительное + инфинитив) стоит в конце предложения и отделяется запятой. Она передает сопутствующее обстоятельство с модальным значением долженствования. На русский язык переводится предложением, вводимым союзом *причем*.

We asked him to help us, the work to be done in a week.

*Мы попросили его помочь нам, так как работа должна быть сделана через неделю.*

The sellers offered the buyers 5,000 tons of oil, delivery to be made in October.

*Поставщики предложили покупателям 5.000 тонн нефти, причем поставка должна быть произведена в октябре (которые могут быть поставлены ...).*

We shall make the experiment with the raw materials to be taken from another laboratory.

*Мы проведем этот эксперимент, причем исходные материалы будут взяты из другой лаборатории.*



## PART 1. JUDICIARY

### The US Court System

**Ex. 1.** *Read the text and translate it into Russian.*

Because the United States is a federal rather than a unitary system, there are federal and state courts. The judicial power of government, whether state or federal, is vested in a system in which there are several classes of courts to hear different classes of actions and/or perform different functions in the adjudication of cases. Within a court system each court has some limited and special authority, which may be explained partly on the basis of convenience and efficiency.

The federal judicial system is composed of three tiers. The major trial courts are known as U.S. district courts. There are 94 of them. Each state has at least one, and the district court's jurisdiction includes more than one. District court cases are heard by a single judge, who must be a resident of the district in which he or she presides. In addition to the district courts, several special courts created by Congress have original jurisdiction over certain types of cases, for example, tax courts, customs courts and courts martial (military tribunals).

Decisions of the district courts may be appealed to the 13 U.S. courts of appeals colloquially known as "circuit courts". Several states comprise one federal judicial circuit. Judges in these courts usually sit in panels of three.

At the apex of the federal judicial system is the U.S. Supreme Court. The Supreme Court serves as the court of the last resort for all legal cases in the United States of the literally thousands of requests for review filed each year. The Supreme Court chooses about 300 cases to consider on their merits. The Supreme Court sits en banc<sup>1</sup> rather than in smaller panels, and at least six of the nine justices must be present to hear a case. Decisions need not be unanimous, they are based on the will of the majority.

The United States Supreme Court enjoys high level of respect and prestige even though the public is not very knowledgeable

about its actual working or decisions. Despite this lack of awareness, opinion surveys consistently reveal greater public confidence in the Supreme Court than in Congress or the presidency.

**Ex. 2.** *Match English and Russian equivalents:*

- |                                       |   |
|---------------------------------------|---|
| 1) unitary system                     | a) председательствовать                   |
| 2) district court                     | b) быть единодушным                       |
| 3) to preside                         | c) таможенные суды                        |
| 4) tax courts                         | d) единая система                         |
| 5) customs courts                     | e) суды с ограниченной юрисдикцией        |
| 6) court martial                      | f) уполномочить                           |
| 7) to be unanimous                    | g) окружной суд                           |
| 8) state court adjudication           | h) разрешение спора судом штата           |
| 9) the courts of limited jurisdiction | i) налоговые суды                         |
| 10) to empower                        | j) проигравшая сторона в гражданском деле |
| 11) losing litigant                   | k) трибунал (военный)                     |

**Ex. 3.** *Give the English equivalents for the following word combinations:*

частные лица, суды штатов, подать иск, федеральные суды, подпадать под юрисдикцию, разрешить дело в судебном порядке, Верховный суд, судебное разбирательство (тяжба), окружные суды, высшие суды, низшие суды, суд последней инстанции, рассматривать дело, апелляционные суды.

### **Text Study**

**Ex. 4.** *Complete the following sentences:*

1. The judicial power is represented by a system of courts spread throughout the country and ... .
2. By the Constitution the courts have the power ... .
3. One of the most important duties of the Supreme Court is to decide ... .
4. The United States is divided into 11 separate regions, each of them ... .
5. Almost all persons accused of committing federal crimes ...
6. Another important special court is the Customs Court, which has exclusive ... .

**Ex. 5.** *Find out whether the statement is true or false according to the information presented above.*

1. Congress has the authority to create and abolish federal courts as well as to determine the number of judges in the federal judicial system.
2. The federal judges are appointed by Congress for life, in practice, until they die, retire or resign.
3. The Supreme Court consists of a Chief Justice and eight Associate Justices.
4. Most of the cases heard by the Supreme Court are appeals from the lower federal courts.
5. Each state has at least two district courts.
6. Usual claims are for unpaid salary, property taken for public use, contractual obligations, and personal injuries for which the Federal Government is allegedly responsible.
7. Another important special court is the customs court, which has exclusive jurisdiction over cases connected with monetary problems.

**Ex. 6.** *Points for discussion:*

1. Analyze the judicial branch of power in the United States.
2. Examine the federal court system.
3. The Supreme Court – the highest court of the country.
4. Describe the structure and functions of Appeal Courts.

5. State the role of the district courts.
6. Examine special courts and their functions.

## **PART 2. THE BRITISH JUDICIAL SYSTEM**

**Ex. 1.** *Read the text and get ready to discuss it.*

The English judicial system is basically pyramidal in organization. At the top of the pyramid is the House of Lords, the final civil and criminal appellate tribunal for England, Wales and Northern Ireland and the final civil court of appeal for Scotland.<sup>1</sup> The Appellate Committee of the Upper House of Parliament exercises final appellate jurisdiction. The Lord Chancellor is the highest judge in the kingdom. The privilege to sit on the Committee is re-served for members of the House who have held high judicial offices, including ex-Lord Chancellors. Members of the Appellate Committee are generally known as the Law Lords. A minimum of three judges is required, but in practice the normal number is five. The House of Lords hears only a very limited number of cases involving “points of law of general public importance”.

Beneath the House of Lords is the Court of Appeal, the intermediate appellate court, which hears both criminal and civil appeals. Under the Supreme Court Act 1981 there exists a single Court of Appeal with Civil and Criminal Divisions. The Civil Division is presided over by the Master of the Rolls<sup>2</sup> and the Criminal Division by the Lord Chief Justice.<sup>3</sup> About sixteen Lord Justices of Appeal<sup>4</sup> promoted from the judicial ranks constitute the Court. The appointments are for life, subject to mandatory retirement at age 75. The Court of Appeal normally sits as a bench of three although in controversial cases a bench of five may be convened.

Beneath these appellate courts are two separate systems of trial courts<sup>5</sup>, one for criminal cases, the other for civil cases.

On the civil side are the High Court<sup>6</sup>, a court of general jurisdiction, and the County Courts<sup>7</sup>, which have only limited jurisdiction. On the criminal side are the Crown Court<sup>8</sup>, also a court of

general jurisdiction, and the Magistrates' Courts<sup>9</sup> having only limited jurisdiction.

The High Court is organized in three divisions – Queen's Bench<sup>10</sup> (with Lord Chief Justice as the presiding judge), Chancery<sup>11</sup> (presided by the Vice –Chancellor) and Family (headed by the President). The Queen's Bench Division deals with a wide range of issues under commercial and contract law and under the law of torts. Among the most important functions of the Chancery Division are matters covering partnerships mortgages, trusts, deeds, minors and the partition of land. The Family Division deals with problems which are fairly self-evident by its very name – all matrimonial matters and disputes and issues relating to the care and adoption of children. Barristers usually specialize within one of the three divisions. There are about 80 High Court judges. They sit in and outside of London and some mainly Queen's Bench Division justices tour on circuit around the country. The High Court deals with about half a million civil cases a year, however, just 1% of the cases actually reach trial stage; in other words, they are “settled out of court”.

County Courts administer justice in minor civil cases. They exist in most towns of a reasonable size. They have financially limited jurisdiction where the plaintiff's claim shouldn't exceed £1,000 in mortgage possessions, £5,000 – in contracts, debts, purchase or sale, £30,000 in equity. Barristers have monopoly as County Court judges but the Lord Chancellor may appoint a solicitor of ten-years' standing to be a Recorder<sup>12</sup> or part-time judge. For the trial itself the normal practice – as in the High Court – is for a single judge to hear a case. Like High Court judges, County judges serve “during good behavior”, subject to mandatory retirement at age 72. The Lord Chancellor may remove a County Judge for cause.

The Crown Court deals with a wide range of serious criminal cases. The Crown Court is part of a federation of courts known as the Supreme Court. The other courts belonging to the Supreme Court are the Court of Appeal and the High Court of Justice, in-

cluding the Divisional Courts. The crown court is presided over by a judge, but the decision on guilt or innocence is made by a jury of twelve citizens. Crown court judges are all qualified, professional and experienced lawyers chosen for their competence in the law.

Three different classes of judges sit in the Crown Court: High Court judges who are normally judges of the Queen's Bench Division presiding over the trials of the most serious offences, circuit judges (barristers of at least ten years' standing), part-time judges known as Recorders (either a barrister or a solicitor of at least ten years standing may be appointed). There are four classes of criminal offences tried by Crown Courts sitting in principal towns throughout England, Wales and Northern Ireland. Class I cases must be tried by a High Court judge – for example, the offences of murder and spying. Class 2 offences will normally be tried by a High Court judge but he may assign the case to a circuit judge or Recorder – for instance, manslaughter, rape, incestuous acts, infanticide and acts which cause very serious bodily harm. Class 3 cases may be tried by any one of the three types of judges listed above; the offences here will include robbery and serious burglary. Finally, Class 4 offences, such as theft, assault causing bodily harm, driving with alcohol over the prescribed limit, will usually be tried by a circuit judge or a Recorder. Class 4 offences are by and large those triable either way. Some Crown Courts are more "senior" than others, depending upon which class of offences they are able to try.

The Magistrates Court is the most junior of all courts; in the main it is the lowest rung in the ladder of criminal proceedings. In England and Wales there are approximately 1000 Magistrates' Courts which are served by over 25,000 lay magistrates. There are also about 50 stipendiary justices, in London and the metropolitan cities, who are full-time and paid. The lay magistrates, or justices of the peace, although unpaid, they do receive subsistence and travelling allowances. These courts are extremely important on account of their case-load alone: apart from their limited civil jurisdiction over such family matters as the custody and adoption of

children and maintenance orders, magistrates handle over 96% of all criminal cases (including motoring offences). A Magistrates' Court normally consists of three J.P.s (Justices of the Peace). In these courts the J.P.s are advised on points of law by their clerks, who are professional lawyers.

**Notes:**

1. Scotland and Northern Ireland have their own systems of justice.

2. Master of the Rolls – председатель апелляционного суда и хранитель судебных архивов.

3. Lord Chief Justice – судья-председатель отделения королевской скамьи Высокого суда правосудия.

4. Lord Justices of Appeal – судьи апелляционного суда.

5. Trial court – суд первой инстанции.

6. High Court – Высокий суд.

7. County Court – суд графства.

8. Crown Court – коронный суд (уголовный суд присяжных).

9. Magistrates' Court – магистратский суд, мировой суд.

10. Queen's Bench Division – суд королевской скамьи (отделение Высокого суда правосудия).

11. Chancery Division – канцлерское отделение Высокого суда правосудия.

12. Recorder – рикордер (судья преимущественно с юрисдикцией по уголовным делам).

**Ex. 2. Mark the statements which are true.**

1. The House of Lords is the final court of appeal for civil and criminal cases in the UK.

2. A jury is always present the Crown Court hearings.

3. The County Court hears cases concerning statute law.

4. All English judges and magistrates are professional lawyers.

5. The Magistrates Courts hear certain categories of less important cases.

6. The Magistrates Courts can choose to hear cases with or without a jury.

## GRAMMAR SECTION

### **Grammar to be revised: *Participle I and Participle II.***

**Ex. 3.** *Analyse and translate the sentences with Participle I and Participle II.*

1. A constable must have reasonable suspicion justifying the arrest. 2. Being suspected of a petty larceny Henry Tucker was arrested. 3. A custody officer makes a written record in the presence of the person arrested, informing at that time the person orally of the grounds of his detention. 4. Having nothing more to say the prisoner kept silence. 5. Doubting that the person arrested would appear in court the custody officer decided to detain him. 6. Having decided not to prosecute the young man the police released him without bail. 7. Having no evidence against him we won't be able to charge him. 8. Following the criminal, the police car ran into a truck. 9. Having stopped and searched the man in the circumstances you acted unlawfully. 10. I wouldn't have journalists distorting the facts of the case. 11. The hearing of the cases in the International Court of Justice is under the control of President or Vice-President elected by the Court itself. 12. The Court gives advisory opinions on legal matters referred to it by the General Assembly, the Security Council and other organs authorized by the General Assembly. 13. Tribunals chaired by someone who is legally qualified often consist of lay people. 14. Tribunals normally do not employ staff or spend money themselves, but their expenses are paid by the departments concerned. 15. It takes much longer to have a case heard in the Crown Court than in the Magistrates Court. 16. It is a royal prerogative to pardon a person convicted of a crime or to remit all or a part of a penalty imposed by a court. 17. When heard in public, such cases always attract a lot of public. 18. Appeals, if made, must be made promptly. They soon become time-barred.

**Ex. 4.** *Transform the following sentences so as to use Participle I as an attribute.*

Model: You should address the officer who investigates homicides.

**You should address the officer investigating homicides.**

a) Legal systems usually have codes of conduct for the police, which limit the time and the methods they can use to question suspects. 2. Mrs. Little-wood, 29, had her conviction of an assault which caused actual bodily harm to the policeman. 3. The police have found the evidence that proves his involvement in the crime. 4. The police shall arrest the pickets who sit down in the highway. 5. An identification officer who supervises the process and records its details should be present at the parade. 6. The man became violent, produced a weapon and attacked the policeman who was conveying him to the police station. 7. A man who is carrying a big new bag with a price tag on it might have stolen it.

**Ex. 5.** *Join the two sentences into one using Participle II.*

Model: The International Court of Justice consists of fifteen judges. They are elected for a nine-year term by the General Assembly.

**The International Court of Justice consists of fifteen judges elected by the General Assembly for a nine-year term.**

1. The County Courts were to facilitate the recovery of small debts. These courts were established in 1894.

2. The appeal will be heard on Monday. It was permitted direct from the Court of Summary Jurisdiction to King's Bench.

3. Cases of street collisions, hire – purchase and nuisances are heard by the County Courts. In such cases the claim should not exceed one hundred pounds.

4. Assizes are an integral part of the High Court. They are held three or four times a year at provincial towns.

5. The paintings haven't been found yet. They were stolen from the museum.

6. The man was knocked down in the street. He claimed damages to the car driver.

7. The International Court of Justice is the principal judicial organ of the UN. It was established by the Charter of the United Nations.

**Ex. 6.** *Answer the questions using Participle I as an adverbial modifier of time, cause(reason), circumstances (manner). Mind the form of the Participle.*

Model 1: When did the police find stolen goods? (to conduct a search in the house).

**While conducting a search in the house the police found stolen goods.**

1. When did a patrolman see a burglar? (to be on duty)

2. When did Smith resist the police? (to arrest unlawfully)

3. When did the constable become still more suspicious about the man? (to listen to his answers)

4. When do local community and religious leaders check on condition of detention? (to visit the police station without warning)

5. When was the suspect interviewed? (to take to the police station)

Model 2: Why was he the most eligible for suspicion? (to have previous convictions for theft from cars)

**Having previous convictions for theft from cars he was the most eligible for suspicion.**

1. Why did the policeman decide to check on the adjacent street? (to alert by radio of a burglary) 2. Why is he placed in an extremely uncomfortable moral position? (to be a holder of the confidential information) 3. Why didn't he stop and search the man? (not to have reasonable suspicion) 4. Why didn't he identify the man at the parade? (not to see him before) 5. Why wasn't he released on bail? (not to have money to make bond) 6. Why didn't the arrested man understand anything? (to read his rights in the language he didn't know)

Model 3: How did he spend the day? (to make a house to house inquiry).

**He spent the day making a house to house inquiry.**

1. How did the police find a robber? (to use the information of the informant). 2. How did you and your partners spend the last night? (to patrol in the park). 3. How did a drunken man drive his car? (to violate all the traffic rules).

1. How did he get his money? (to import and supply cocaine). 5. How did they conduct the arrest? (to exceed their powers). 6. How did the officer spend the whole day? (to make a written record of his actions).

**Ex.7.** *Change the adverbial clause so as to use Participle II as an adverbial modifier.*

Model: When he was asked about the accident he said nothing new.

**When asked about the accident he said nothing new.**

1. When a defendant is found guilty by the magistrates he may appeal to the local Crown Court. 2. If the International Court of Justice is requested it gives an advisory opinion on any legal question. 3. If in Northern Ireland a man is accused of a terrorist – type offence he is tried in non-jury courts to avoid any intimidation of jurors. 4. As the divorce was disputed by one of the parties it was transferred to the Family Division of the High Court. 5. Though foreign lawyers may be employed in Japanese law companies, they are not allowed to work on cases that involve Japanese laws. 6. Any member of the public may witness a court case, although he is not given the right to speak. 7. As the defendant was embarrassed by the question he didn't know what to say.

**Ex. 7.** *Choose the appropriate form of the Participle to complete the sentences.*

1. (*Obtaining / having obtained*) the warrant the Customs officer searched the business records of Mr. Doyle. 2. (*Authorizing / having authorized*) the detention of a suspect beyond the initial twenty four hours the superintendant took into account all the circumstances of the case. 3. (*Being arrested / having been arrested*)

unlawfully Mrs. Craddock complained the police actions. 4. (*Being shown / showing*) the suspect on video the witness didn't identify him. 5. (*Suspecting / having suspected*) that the man was going to steal something the shop owner called a policeman. 6. (*Threatening / being threatened*) with a gun I had nothing to do but give my purse to a robber. 7. Philip White seems to be a (*promising/promised*) lawyer. 8. A crowd of (*exciting/ excited*) people was waiting for the end of the trial outside the court building. 9. The process of taking an action from a lower court to the highest court may be very time -(*consuming/consumed*). 10. More serious offences are tried by the Crown Court, (*presiding/presided*) by a judge (*sitting/sat*) with a jury. 11. Cases (*deciding/decided*) by tribunals concern the rights and obligations of private citizens towards one another or towards government departments or other public authority. 12. Your proves sound (*unconvincing/unconvinced*). 13. (*Submitting/submitted*) Miss Fisher to cross-examination I wanted to get to the truth. 14. You'll have to study five years to be (*qualifying/qualified*) as a lawyer.

**Ex. 8.** *Translate the sentences into English using the proper form of the Participle where possible.*

1. Вы нарушили закон, не обеспечив присутствие взрослого при допросе несовершеннолетнего. 2. Уведомив третью сторону о том, что Блэкман арестован, вы тем самым предупредили его сообщников. 3. Судя по отпечаткам, преступников было несколько. 4. Честно говоря, я не очень доверяю показаниям этого свидетеля. 5. Сопrotивляясь противозаконному аресту, они действовали в рамках закона. 6. Были обнаружены новые улики, оправдывающие его повторный арест. 7. Говоря неправду, вы лишь усугубляете свое положение. 8. Юрисдикция Международного Суда охватывает дела, представленные сторонами, и вопросы, предусмотренные уставом и действующими договорами. 9. Некоторым лицам, связанным с правом, не разрешается быть присяжными. 10. Мне нужны все дела в напечатанном виде, и как можно быстрее. 11. Стали

известны некоторые факты, скрытые клиентом от его адвоката. 12. Дело, возбужденное против адвоката, полностью подорвало его репутацию.

### **PART 3. PROCEDURE AND EVIDENCE**

**Ex. 1.** *Read and translate the following text.*

#### **Civil Procedure**

The term «procedure» covers all the steps necessary to turn a legal right in-to a satisfied judgement, it does not merely refer to the trial itself. The proceedings prior to trial take much time and often result in a settlement being reached before any trial takes place. Proceedings after trial may also take time, for example appeals procedure and enforcement of the judgement.

The basic steps involved are as follows:

1. The action is begun by issuing and serving a writ.
2. The defendant acknowledges service.
3. An exchange of pleadings takes place.
4. Preparation is made for the trial, including discovery and inspection of documents.
5. The trial.
6. If there is no appeal the matter is concluded by enforcement of the judgement.

The usual method of commencing an action is to issue a writ. This places matter on official record. A copy of the writ must be served on each defendant either personally or by some other means such as service to his solicitor. Some actions are commenced by a petition rather than a writ, for example a divorce or a company's liquidation. If a person on whom a writ is served proposes to enter a defence, he must within 14 days of service of the writ, deliver an acknowledgement. The form of acknowledgement is served by the plaintiff with the writ. After acknowledgement service the defendant has further 14 days for which to file a defence.

The object of pleadings is to define the area of contention between the parties. A pleading must contain a brief statement of the facts relied on, but not the evidence by which they will be proved. If a matter is not included in the pleading it cannot usually be raised at the trial. The first pleading contains the statement of claim made by the plaintiff. The second one is the defendant's answer, the defence. If the defendant has a complaint against the plaintiff he may include a counterclaim with his defence. Then the reply comes, the plaintiff's answer. If either party needs more information he may ask for further and better particulars of specific matters.

If the defendant fails to acknowledge service or if he fails to serve a defence the plaintiff may obtain a default judgement without the necessity of restoring to a trial. If the plaintiff feels that there is no defence to the action he may apply for a summary judgement.

Between the close of pleadings and trial much preparatory work must be done by the parties' solicitors. Documents relevant to the dispute are inspected, such matters as the date and venue of the trial are fixed and the number of expert witnesses that may be called by each side.

The trial starts with the plaintiff's barrister outlining the issues involved and calling the witnesses. The defendant's barrister then outlines his case and calls the evidence for the defence. Next the defendant's barrister and then the plaintiff's barrister will make a closing speech. Finally the judge gives the decision in the form of a reasoned judgement which may be delivered as soon as the case is concluded, or reserved to a later date if the judge wishes to consider the case further.

The final stage is enforcement of the judgement. If the defendant does not pay a judgement debt the latter is recovered from the proceeds of selling the debtor's goods or land.

**Ex. 2. Match English and Russian equivalents.**

1) prior proceedings

а) изучение документов

2) enforcement of the judgement	b) заочное решение суда в пользу истца (вследствие неявки ответчика);
3) and serving a writ	с) жалоба против истца;
4) acknowledgement service	d) доставить расписку;
5) exchange of pleadings	e) принуждение к исполнению решения суда;
6) inspection of documents	f) предшествующие процедуры;
7) official record	g) предмет судебных прений;
8) to deliver an acknowledgement	h) произносить заключительную речь;
9) object of pleadings	i) обмен судебными прениями;
10) complaint against the plaintiff	j) служба уведомления;
11) default judgement	k) выписывание и доставление
12) to make a closing speech.	l) официальный протокол;

**Ex. 3.** *Choose the best alternative to complete the following sentences.*

1. The proceedings prior to trial take much / little time.
2. Appeals procedure and enforcement of the judgement are proceedings after / before the trial.
3. The usual method of commencing an action / arrest is to issue a writ / warrant.

4. The form of acknowledgment is served by the plaintiff / by the defendant with the writ.

5. A pleading must contain a brief / full statement of the facts relied on.

6. The trial starts / ends with the plaintiff's barrister / solicitor outlining the issues.

7. Finally the defendant's barrister and then the plaintiff's barrister will make a/an opening/closing speech.

8. The judge / foreman presents the verdict.

**Ex. 4.** *Translate into English.*

Источниками гражданского процессуального права в Англии являются прежде всего законодательные акты судеустройственного характера, определяющие структуру, компетенцию и некоторые вопросы деятельности судов соответствующих уровней (Закон о Верховном суде 1981 г., Закон о судах графств 1984 г., Закон о судах и юридических услугах 1990 г. и др.). Важную роль в регулировании гражданского судопроизводства играют законы об отправлении правосудия.

**Ex. 5.** *Mark the statements which are true.*

1. The term "procedure" refers to the trial itself.

2. Issuing and serving a writ places the matter on official record.

3. The form of acknowledgment is served by the plaintiff with the injunction.

4. A pleading must contain the evidence by which it will be proved.

5. If a matter is not included in the pleadings it cannot usually be raised at the trial.

6. The second pleading contains the statement of claim made by the defendant.

7. If the plaintiff feels that there is no defence to the action he may apply for a summary judgement.
8. The trial starts with the inspection of documents.
9. Finally the plaintiff's barrister gives the decision in the form of a reasoned judgement.
10. The final stage is enforcement of the judgement.

**Ex. 6.** *These are answers. What are the questions?*

1. The proceedings prior to trial take much time.
2. Proceedings after trial may also take time.
3. The usual method of commencing an action is to issue a writ.
4. After acknowledgment service the defendant has 14 days for which to file a defence.
5. There are the first and the second pleadings.
6. The plaintiff may obtain a default judgement.
7. The date and venue of the trial are fixed and the number of expert witnesses may be called.
8. The plaintiff's barrister is outlining the issues involved and calling the witnesses.
9. The debt is recovered from the proceeds of selling the debtor's goods or land.

**Ex. 7.** *Read the text and get ready to discuss its main points.*

### **Criminal Procedure**

When the offence is not serious and the accused is likely to appear when required a summons is issued informing him of the time, date and place of the trial.

If the offence is more serious and there is a possibility that the accused will not appear voluntarily a warrant for his arrest will be issued. A warrant is a written order addressed to the police ordering them to secure the person to whom it refers.

A summary trial is a trial by magistrates without a jury. The Clerk of the Justice will read the charge and ask the accused to plead it. If the accused pleads not guilty or if he remains silent the trial will commence with the prosecutor addressing the court and then calling his evidence. The defence may then address the court and call evidence. Both prosecution and defence witnesses may be cross-examined. The prosecution may then call further evidence to rebut the defence, and the defence may also be given a second opportunity to address the court. Then the prosecution will be given the final right of reply. The magistrates will then make their decision. If they find the accused guilty, they may consider previous convictions or evidence of previous good character before deciding on the sentence. If the court considers that the accused should receive a greater punishment than they have the power to impose the accused may be referred to the Crown Court for sentence.

The accused needn't appear in court in person but can plead guilty by post in cases where his appearance at court would be a mere formality, if not waste of time and money. In cases of indictable offences first it is necessary to establish whether there is a *prima facie*<sup>1</sup> case against the accused. This is the function of committal proceedings before examining magistrates. If it is decided to commit the accused to the Crown Court for trial the magistrates then have to decide whether to remand him in custody or release him on bail. In making this decision they will consider the nature of the offence and the character of the accused.

Between committal and trial a document called an indictment is prepared. This is a brief statement of the nature of the offence. This is read to the accused at the start of the trial. He then pleads "guilty" or "not guilty". If the plea is "not guilty" a jury must be summoned.

### **Notes:**

1. *Prima facie* (*Lat.*) – преимущественно, судя по имеющимся доказательствам.

**Ex. 8.** *Say if these statements are true or false.*

5. A summons is issued informing the accused of the time, date and place of the trial.
6. A warrant is a written order addressed to the accused.
7. A summary trial is a trial by High Court with a jury.
8. The Clerk will read the statement of claim to the accused.
9. The defence may then inspect the documents.
10. Both prosecution and defence witnesses may be cross - examined.
11. When magistrates make their decisions, they will not consider the accused's previous convictions.
12. The accused needn't appear in court in person.
13. Before a summary trial the magistrates have to decide whether to remand the accused in custody or release him on bail.
14. Between committal and trial physical evidence is prepared.

**Ex. 9.** *Complete the following sentences.*

1. When the offence is not serious ...
2. If the offence is more serious ...
3. If the accused pleads not guilty ...
4. If the magistrates find the accused guilty ...
5. If the court consider that the accused should receive a greater punishment ...
6. The accused needn't appear in court in person but ...
7. In cases of indictable offences first it is necessary to establish ...
8. An indictment is read to the accused ... .

**Ex. 10.** *At what stage or stages of the criminal procedure is the person involved called:*

1. defendant, 2. offender, 3. suspect, 4. convict, 5. criminal, 6. accused.

**Ex. 11.** *The following events are all connected with the criminal procedure. Note that some of the phrases may have the identical meaning.*

- A. You are charged with an offence.
- B. You are sentenced to punishment for an offence.
- C. You are suspected of an offence.
- D. You are tried for an offence.
- E. You are accused of an offence.
- F. You are convicted of an offence.
- G. You plead guilty or not guilty to an offence.
- H. You are arrested for an offence.

**Ex. 12.** *Make your own sentences on the judicial process. Use the following words and word-combinations.*

- 1. court, to appear in court, trial, judge, jury;
- 2. to give evidence, to testify, testimony;
- 3. the accused, the defendant;
- 4. barrister, the defence, the prosecution;
- 5. to plead guilty / not guilty;
- 6. to put a witness in the stand, to cross-examine;
- 7. to try and pick holes in the witness's evidence;
- 8. to make a closing speech, to announce the verdict;
- 9. the jury's verdict, unanimous / majority verdict;
- 10. to pass a sentence / set someone free.

**Ex. 13.** *Case study.*

***Which of the roles could you take in a trial and why?***

The judge (J); the jury (j); the accused (A); a witness (w); a police officer (p.o); the clerk (C); the usher (U); the prosecutor (P); the solicitor (S)

**Ex. 8.** *Match the sentences with the people who could have said to them (put the) corresponding letter next to the words.*

- I am charging you with attempted murder.
- How do you plead?
- Call the first witness.
- Members of the jury, how do you find the accused? Guilty or not guilty?
- The verdict of this court is that you are guilty and I therefore sentence you to life imprisonment.
- I want to appeal against my sentence.
- I plead not guilty.
- Be upstanding in Court!
- I call upon the Prosecutor to state the case against the accused.
- I swear by Almighty God that I shall tell the truth, the whole truth, and nothing but the truth.
- Take the witness stand, please, and recite the oath.
- I call ... as witness to support my case.
- We find this case proved/not proved.
- No further questions, your Honor.
- I wish to call ... to the stand.
- Objection.
- Objection (not) sustained.
- The prosecution rests.

*b) Put the phrases in the order they might appear during the trial.*

**Ex. 14.** *Case study.*

*Read the following information and then role-play the trial according to the details given.*

**a)** The accused, a 32-year-old single woman, went to a department store where she allegedly took a bottle of perfume without paying. She is charged with shoplifting.

**b)** Choose one of the roles below and then look at your role card. It is important that you do not look at anyone else's card.

- judge
- defending counsel
- prosecuting counsel
- accused
- store detective
- character witness
- jury (12 people): it is your job to listen to the evidence and decide whether the accused is guilty or not.

c) The procedure at a trial is as follows:

1. The prosecuting counsel makes a speech saying why the accused is guilty.

2. The defence counsel makes a speech saying why the accused is innocent, or at least why the prosecution cannot prove the accused's guilt.

3. The prosecuting counsel puts his or her witness(es) in the witness stand and gets them to tell the court what they know.

4. The defending counsel tries to find fault with what the witness(es) has/have said.

5. The procedure is reversed: now the defending counsel puts a witness in the stand.

6. The defending counsel makes a closing speech to the jury saying why they should acquit the accused.

7. The prosecuting attorney makes a speech saying why the jury should find the accused guilty.

8. The judge passes a sentence or sets the accused free.

## PART 4. TRIAL BY JURY

**Ex. 1.** *Read the text and translate it into Russian.*

### What's a Crime?

A crime is an offence against the whole society; it is a wrongful act or omission, serious enough for the wrong-doer to be punished by the rest of the community. Criminal behavior is seen as sufficiently serious or deviant or immoral for the majority of society to ban it. Of course, what may be outlawed one year may not have been the year before. Public opinion is not set for all time and legislation reflects changing habits and norms. Moreover, new forms of potentially criminal activity arise, and the courts respond to those too. Thus, definitions of what is to be regarded as criminal can change quite radically over years.

Criminal law in the widest sense covers a multitude of activities and sins – from murder, rape, arson, theft and damage of property to the less overtly criminal matters of careless motoring, selling unfit food or serving alcohol to a teenager. The principal areas of Criminal law are offences against persons and offences against property. Offences against persons can be fatal and nonfatal. The former deals with homicide (killing of a human being by a human being) which falls into three categories: murder (premeditated unlawful killing of another), manslaughter, infanticide. The

2. The courts must respond to all forms of criminal activity.

3. The criminal behavior is not seen as serious or deviant for the majority of society to ban it.

4. The police officer can arrest without a specific warrant for any suspected crime.

5. The defendant has failed to answer a summons and the magistrate decided to bring him before the court.

6. A conviction cannot be secured unless it is shown that *actus reus* and *mens rea* were present.

7. The burden of proof lies upon the Jury.

8. The way of classification of offences by the manner of trial is fatal and non-fatal offences.

9. The Criminal Act 1967 introduced the concept of felonies and misdemeanors.

10. Offences concerned with obstructing justice are: hijacking, treason, terrorism.

**Ex. 5.** *Case study. Discuss each case in class and decide:*

1. How would you feel if you were the victim (the defendant) of the crime?

2. If you were the judge, would you give a different sentence?

3. If you were the judge, would you reinvestigate the case to reveal other facts or circumstances?

**Ex. 6.** *Read the texts and translate them into Russian.*

### **Assault**

In 1976 a drunk walked into a supermarket. When the manager asked him to leave, the drunk assaulted him, knocking out a tooth. A policeman who arrived and tried to stop the fight had his jaw broken. The drunk was fined 10 pounds.

### **Shop-lifting**

In June 1980 Lady Isabel Barnett, a well-known TV personality was convicted of stealing a tin of tuna fish and a carton of cream, total value 87p, from a small shop. The case was given enormous publicity. She was fined 75 pounds and had to pay 200 pounds towards the cost of the case. A few days later she killed herself.

### **Fraud**

This is an example of a civil case rather than a criminal one. A man had taken out an insurance policy of 100,000 pounds on his life. The policy was due to expire at 3 o'clock on a certain day. The man was in serious financial difficulties, and at 2.30 on the expiry day he consulted his solicitor. He then went out and called

a taxi. He asked the driver to make a note of the time, 2.50. He then shot himself. Suicide used not to cancel an insurance policy automatically. (It does nowadays). The company refused to pay the man's life, and the court supported them.

**Ex. 7.** *Read the text and get ready to discuss its main points.*

### **What is Criminology?**

The science of criminology has been known as such for only a little more than a century. "Criminology" aptly described and encompassed the scientific concern with the phenomenon of crime. The term immediately gained acceptance all over the world and criminology became a subject taught at universities.

The objective of criminology is the development of a body of general and verified principles and of other types of knowledge regarding the process of law, crime, and treatment or prevention.

Classical criminologists thought the problem of crime might be solved through limitations on governmental power, abolition of brutality, and creation of a more equitable system of justice. They argued that the punishment should fit the crime. For over a century this perspective dominated criminology.

Later on, positivist criminologists searched for determinants of crime in biological, psychological, and social factors, they influenced judges to give greater consideration to the offender than to the gravity of the crime when imposing sentences (the current era marks a return to the classical demand that the punishment must correspond to the seriousness of the crime and the guilt of the offender). Among the first researchers to analyze empirical data (facts, statistics, and other observable information) in a search for the causes of crime was Cesare Lombroso (1835-1909) of Italy. His biologically oriented theories had wide influence on American criminology at the turn of the twentieth century. At that time the causes of crime were thought to rest within the individual: criminal behavior was attributed to feeble-mindedness and moral insanity. From then on, psychologists and psychiatrists played an im-

portant role in the study of crime and criminals especially after Sigmund Freud developed his well-known theory of human personality. The psychological and biological theories of criminal behavior share the assumption that such behavior is caused by some underlying physical or mental condition that separates the criminal from the noncriminal. They seek to identify the “kind of person” who becomes a criminal and to find the factors that caused the person to engage in criminal behavior. These theories yield insight into individual cases, but they do not explain why crime rates vary from one neighborhood to the next, from group to group, within large urban areas, or within groups of individuals.

Biologically based theories popular in the late nineteenth century, fell out of favor in the early part of the twentieth century. The search then moved to cultural and social interpretations. Crime thus was explained not only in terms of the offender but also in terms of social, political, and economic problems. The sociological perspective became popular in the 1920s and has remained the predominant approach of criminological studies. Sociological theories seek the reasons for differences in crime rates in the social environment. Clearly, criminology is a discipline composed of the accumulated knowledge of many other disciplines. Sociologists, political scientists, legal scholars, economists, pharmacologists, biologists entered the arena of criminology.

**Ex. 8.** *Say if these statements are true or false.*

1. Criminology as a science dates back to middle ages.
2. Criminology is the body of knowledge regarding crime as an outlawed phenomenon.
3. The object of criminology is the development of knowledge regarding the process of law, crime and treatment or prevention.
4. Among the first researchers to analyze facts, statistics in a search for the causes of crime was Sigmund Freud.
5. Criminology is a discipline composed of the accumulated knowledge of other disciplines.

6. Classical demand is that the punishment must correspond to the seriousness of crime.

7. The psychological and biological theories seek to identify “the kind of person” who becomes a criminal.

8. Sigmund Freud developed his well-known psychological theory of criminal behavior.

9. Sociological theories seek causes of crime in the social environment.

**Ex. 9.** *Here are some answers. What are the questions?*

1. The science of criminology has been known as such for only a little more than a century.

2. Criminology is one of the social or behavioral sciences.

3. Crime was explained not only in terms of the offender but also in terms of social, political and economic problems.

4. Sociologists, political scientists, legal scholars, biologists entered the arena of criminology.

5. The objective of criminology is the development of a body of general and verified principles regarding crime, its causes, treatment and prevention.

6. Psychologists and psychiatrists played an important role in the study of crime and criminals.

7. The punishment must correspond to the seriousness of the crime.

8. The positivists searched determinants of crime in biological, psychological and social factors.

9. The sociological perspective has remained the predominant approach of criminological studies.

**Ex. 10.** *Read the text, focus on its main points.*

### **Partakers in a Crime**

The common law created a sophisticated system for determining the liability of all persons involved in the commission of a

crime. When, where, and how the various parties could be prosecuted, and the use of evidence at trial, depended on the type of participation.

The person who commits the crime is the perpetrator, the principal (though two or more persons may be perpetrators, for example, "group rape" or conspiracy). The person who plays a secondary role, assists the principal, is the accomplice, the accessory.

Principals may be either in the first or in the second degree<sup>1</sup>, while accessories may be either before or after the fact<sup>2</sup>.

A principal in the first degree is the person who actually did the criminal act or was guilty of criminal omission, either with his own hand or through an innocent agent, e.g. a child.

A principal in the second degree is the person who, without actually taking part, is present at the commission of a crime. An accessory before the fact is one who, without being present at its commission, advises or procures it to be done, and does not countermand it before it is done.

An accessory after the fact is one who assists or permits the escape of the criminal.

Thus, accomplices may be charged with procuring an offence, abetting, aiding or counselling. Sometimes aiding and abetting are regarded as meaning much the same thing.

The system has not solved all problems, because the line between committing a crime and aiding in its commission is a fine one. Though principals and accomplices are usually considered equally culpable, in practice judges often impose lighter sentences on accomplices.

### **Notes:**

1. Principals in the first or in the second degree – исполнители первой и второй степени (лица, фактически совершающие преступление или оказывающие пособничество в совершении преступления).

2. Accessories before or after the fact – соучастники до или после совершения преступления (подстрекатели или укрыватели).

**Ex. 11.** *Read the text and list the main causes of juvenile delinquency.*

### **Juvenile Delinquency**

In Britain a minor for most legal purposes is a person under the age of eighteen. Under the Children and Young Persons Act 1969 minors over 14 are presumed to be fully responsible for their actions. Children under the age of 10 are, in the eyes of law, deemed to be incapable of performing a crime.

A young person is judged capable of criminal intentions in the same way as an adult. A great percentage of adult offenders started their careers as criminals between 14 and 21 years of age. About 80% of chronic juvenile offenders later become chronic adult offenders.

In many countries the meaning of juvenile delinquency is so broad that it embraces practically all manifestations of juvenile behavior. Thus, disobedience, stubbornness, lack of respect, smoking, collecting cigarette butts, hawking and the like are considered as juvenile delinquency. Even in highly civilized countries such as the United States and Sweden complete statistics on juvenile offenders are not available.

Juvenile delinquency is often regarded as a social problem, it is mostly the result of poor living conditions. Therefore, the improvement of these conditions is recommended as a way of preventing juvenile delinquency. Studies show that juvenile delinquency tends to increase rapidly in cities or countries undergoing economic and social changes.

Psychological factor is also called among factors causing juvenile delinquency. Tension, lack of affection, aggressiveness, frustration and the like often lead to crimes. Thus, satisfaction of emotional needs of minors is of particular importance. The disin-

tegration of the family and the lowering of moral standards are also contributory causes of juvenile delinquency.

Treatment of young offenders embraces all types of methods of social re-habilitation and measures, including disciplinary measures and punishments. There should be a system of individualized treatment. Therefore, punishment may be understood to mean, among other things, fines, restitution, compulsory attendance at particular centres or institutions, detention and deprivation of liberty. The selection of staff in charge of treatment is particularly important in the treatment of juvenile offenders.

Despite the large number of theoretical and empirical studies on male delinquent subcultures, little was known about female delinquent subcultures until recently. Female delinquent subcultures, like their male counterparts, were composed of members who had been frustrated in their efforts to achieve the goals (respectability, marriage, status). They thus had drifted into a subculture that offered them substitute status, albeit outside legitimate society. Drug use and prostitution became all but inevitable among mostly lower-class females.

**Ex. 12.** *Put the following sentences in the logical order.*

1. Psychological factor is called among factors causing juvenile delinquency.
2. Juvenile delinquency is often regarded as a social problem.
3. In the eyes of law, children under the age of 10 are incapable of performing a crime.
4. Treatment of juvenile offenders embraces all types of methods and measures, including disciplinary measures and punishment. In many countries the meaning of juvenile delinquency is so broad that it embraces all manifestations.
5. A great percentage of adult offenders started their criminal careers between 14 and 21 years of age.

**Ex. 13.** *Translate and activate the following sentences in your speech:*

7. Необходимо прекратить поощрять преступника.

8. Многие дети, которые совершают преступления, сами родом из неблагополучных, с уголовным прошлым семей.

9. Мы все знаем причины этих преступлений.

10. Им следует объяснить, что – хорошо, а что – плохо.

11. Не кажется ли тебе, что их следует держать под присмотром и дать им возможность самим разобраться со своими проблемами.

12. Я все равно думаю, что им следует отвечать за свои проступки.

13. Я выступаю за телесное наказание.

14. Мне кажется, что тюрьма делает людей еще хуже.

15. Детям нужна дисциплина, часто родители их не контролируют.

16. Смертная казнь в некоторых обстоятельствах – слишком мягкая мера наказания.

**Ex. 14.** *Find English equivalents to the following:*

Жестокое преступление, последние статистические данные, кража со взломом, тяжкие телесные повреждения, жертва, убийство, рост преступности, изнасилование, международный обзор, уличное ограбление, быть осужденным за преступление, угон автомобиля, нападение на сексуальной почве.

## PART 5. TRIAL BY JURY

**Ex. 1.** *Read the text, focus on the peculiarities of trial by jury.*

If Britain had a written constitution, its most predictable clause would provide that no citizen should be liable to lose his or her liberty for longer than a year without at least the opportunity of submitting to trial by jury. The jury system is deeply entrenched, though senior police officers may despair of its propensity for acquitting one in four defendants who contest their charges in Crown Courts.

Jury trial is a unique British institution. It was hit upon by happy accident over seven hundred years ago, to replace trials by the ordeal of fire or water, in which guilt or innocence was decided by ritual tests overseen by parish priests. It was replaced by the procedure which Henry II had instituted to resolve land disputes: a group of worthy citizens from the district was summoned by a judge to decide between rival claimants on the basis of their knowledge of local history and customs.

Jurors all swear solemn oaths to “give true verdict according to the evidence”. The jury has in its verdict the duty of 'blending law and fact; a process in which they might follow “the prejudices of their affection or passions”.

Crown court judges today invariably direct their juries, but independence remains the most remarkable feature of the modern jury, and an important safeguard against oppressive prosecutions. It means that an ordinary, everyday sense of mercy is built into criminal justice arrangements.

Recent studies estimate that some 14 per cent of acquittals are sympathy verdicts, where the jury strives to find a reasonable doubt because it believes, with good cause, that the defendant has been the victim of oppressive police behaviour or has in any event suffered enough. The notion that a jury panel is more likely to acquit brings humanity and compassion to the harsh letter of the law.

The other feature which contributes to the esteem in which the modern jury is held is that it is drawn at random from a representative cross-section of society. This is not a historical survival, but a very recent adaptation of the system to satisfy democratic ideals. Before 1972, juries were mainly male, middle-aged, middle-minded and middle-class - because only those who owned property could serve upon them. Since 1972 the jury has become, truly, the people's court.

The most common public-order offences, such as obstruction of the highway and the use of threatening or insulting language and the new crimes of disorderly conduct and disobedience to police bans and restrictions on demonstrations, do not carry the right to jury trial.

Although serious crimes must be tried by a jury, and most minor offences must be tried by magistrates, many offences of moderate seriousness fall within the category of offences which may be tried by either system. There has been a steady increase in offences which are triable by magistrates.

**Ex. 2.** *Put the following sentences in a logical order.*

1. Recent studies estimate that some 14 per cent of acquittals are sympathy verdicts.
2. Henry II had introduced the procedure to resolve hard disputes: a group of people to decide on the basis of their knowledge of local history and customs.
3. Since 1972 the jury has become truly, the people's court.
4. The other feature which contributes to the esteem is that the jury is selected at random.
5. Jury trial was hit upon over seven hundred years ago.
6. Serious crimes must be tried by a jury and most minor offences must be tried by magistrates.
7. The jury has in its verdict the duty of blending law and fact.
8. Many offences of moderate seriousness fall within the category of offences which may be tried by either system.

**Ex. 3.** *Read the text and give your understanding of the underlined parts of the sentences.*

### **The Plea-bargaining Process**

Every criminal defendant exercises some power over the way the case is to be conducted. A defendant who pleads guilty admits all the facts alleged in the accusation, he or she admits to being guilty as charged. No trial has to be conducted. A defendant who pleads not guilty denies all the facts and their legal implications and puts the government – the prosecutor – to great expense to prove guilt in an elaborate criminal trial. By the mid-twentieth century it had become common practice in the United States for prosecutors and defense attorneys to discuss the criminal charges against defendants and to agree on a reduced or modified plea that would spare the state the cost of a trial and guarantee the defendant a sentence more lenient than the original charge warranted. At first such plea negotiations were quite clandestine and officially denied. In fact, when accepting a plea, the judge would always inquire whether the plea was freely made, and the defendant always answered yes, when in fact the plea was the result of a bargain in which the defendant and the prosecutor manipulated each other into a deal. Contemporary legislation, federal and state, fully recognizes the plea-bargaining process, and simply requires guarantees that no one can be coerced and that all pleas are voluntarily entered, with full awareness of the consequences.

Nevertheless, the process of plea bargaining invites injustices of many sorts. Defendants who are morally or legally not guilty, for example, may feel inclined to accept a plea bargain in the face of strong evidence. Other defendants may plead guilty to a lesser charge even though the evidence was obtained in violation of constitutional guarantees. In some cases, by “overcharging” (charging murder instead of manslaughter, for example), a prosecutor may in effect coerce a defendant to plead guilty to the lower charge, thus, in effect, forcing him or her to relinquish the right to a jury trial. The practice of plea bargaining is widespread.

Abolishing plea bargaining would require broad changes in criminal law and procedure, and thus in the entire criminal justice system. Until such re-forms are achieved, if ever, the system will continue to rely on the decisions of prosecutors and defense counsels to agree on a plea.

**Ex. 4.** *Give Russian equivalents to the following:*

to stand indicted for, to plead “not guilty”, to hear the evidence, to take an oath, to proceed for the Prosecution, to appear for the Prosecution (Defence), to treat smb, a laboratory expert, approximately, instantaneous, to be caused by smth, a blunt instrument, to establish a cause, to make a search, a finger-print, to miss smth, to test for smth, to make an attempt.

**Ex. 5.** *Find English equivalents to the following:*

ордер на обыск; следственный орган; соответствовать; предотвратить осуждение; достаточное основание; доказательство; улика; убедить; результат; установленная процедура; улика, допустимая в качестве доказательства в суде; вмешательство; доказать вину; откровенно виновен; законодательство; показания под присягой; помещение, дом; правило об исключении из доказательств.

**Ex. 6.** *Ask all possible questions to the following sentences:*

1. The identification of the suspect is not the final stage of the process.

2. Most jurisdictions allow a search to be carried out only if there is “reasonable ground for suspecting”.

3. In some cases a person can be stopped in the street and searched.

4. The police officer is to identify himself and state the reasons for the search.

5. Material seized as a result of a search is usually kept by the police for production as exhibits at any trial.

6. The interrogation of suspected persons is an important aspect of the investigation of offences.

7. In the USA any suspect who is being interrogated in custody must be offered the services of a lawyer.

8. A person suspected or accused of a criminal offence is not obliged to answer any question or give evidence.

**Ex. 7.** *Sum up the information you have learnt from the dialogue making use of the following verbs:*

to gather, to convince, to employ, to treat, to allow, to issue, to permit, to be satisfied, to suspect, to search, to comply, to admit, to establish, to prevent.

### **Grammar to be revised: *The Infinitive.***

#### ***The Infinitive Constructions***

**Ex. 8.** *Analyze the forms and the functions of the Infinitive. Translate the sentences.*

1. *To prevent* youth crime is perhaps the most important objective of any state.

2. *To ensure* personal security means *to protect* the vital interests of a person from external and internal threat related to political and military activity as well as environmental, informational and humanitarian safety.

3. *To interpret* means *to decide* if a law follows the Constitution.

4. The appeal process is set up *to help* make people sure of fair trial as possible.

5. The first officer *to arrive* at the scene of a crime has two major responsibilities: a) *to examine* the victim for signs of life, and b) *to protect* and *preserve* all physical evidence.

6. If there are no witnesses, the entire case must *be proved* through physical evidence alone.

7. There is a need *to develop* a concept of a state policy *to prevent* juvenile crime.

8. The facts about the crime *to be obtained* by the investigator can *be given* by the witnesses.

9. The crime *to have been committed* a year ago is still being investigated.

10. The witness claimed to have seen the robber at the scene of the crime.

11. Modern crime *to be endangering* all aspects of human activity is a common and powerful threat for mankind.

12. Although a person under arrest has arrived to refuse to answer questions, the arresting officer may lawfully search the person arrested and find some incriminating evidence.

**Ex. 9.** *Combine the sentences using the Infinitive.*

Model 1: He broke into the house. He wanted to steal the jewellery.

### **He broke into the house to steal the jewellery**

1. I disclosed these facts. I wanted to guarantee your acquittal.

2. The experts were called to the scene of the crime. They were to lift finger-prints.

3. You will be called to the court. You will give evidence.

4. The criminals broke into the garage. They wanted to steal a car.

5. He shot at the policeman. He wanted to resist the arrest.

6. They destroyed all the documents. They wanted to conceal the embezzlement.

Model 2: He is very experienced. He can investigate a murder case.

**He is experienced enough to investigate a murder case.**

1. The offence is not serious. It will not be tried by jury.
2. The evidence is not convincing. The prosecution can't accuse you of burglary.
3. The thief was very smart. He escaped the arrest.
4. The distinction between a robbery and a theft is clear. Everybody can understand it.
5. The criminal was quite thin. He could slip between the bars.

**Ex.10.** *Transform the sentences according to the model using the Infinitive:*

Model 1: He was the first witness who gave evidence.

**He was the first (witness) to give evidence.**

1. Jack Black was the only one who pleaded guilty. 2. He was the first man who managed to break out of this prison. 3. She was the first woman who was sentenced to death in the US. 4. He was the last prisoner who remained in custody. 5. Franklin D. Roosevelt was the only President in the USA who was elected four times (the first time in 1933).

**Ex. 11.** *Analyze and translate the sentences containing the Infinitive Constructions:*

*a) Objective Infinitive Construction (Complex Object):*

1. We believe society to offer strong resistance to crime and its influence in every sphere of life.
2. Everybody considered them not to be guilty.
3. The witness saw a man enter the house and leave it ten minutes later.

4. The police officer wanted the suspected man to be questioned at once.

5. The investigator expected us to give all the information about that accident.

6. Nobody knew him to have been arrested, but his family.

7. People believe the prevention of crime to be one of the main functions of the police.

*b) The Subjective Infinitive Construction (Complex Subject):*

1. Crime has turned to become crueler nowadays.

2. The Criminal Investigation Department is considered to be one of the most complicated police services.

3. Crime is seen to be a social illness and a by-product of the social system within the state.

4. Laws are known to be adopted to protect the interests of all the people in the country.

5. The criminal happened to be arrested rather quickly.

6. The defendant's fingerprints proved to be the only means of identifying the victim.

7. Crime is considered to be a threat to the entire state system, effecting different areas of public life, every person and his security.

*c) For-Infinitive Construction:*

1. It's for the police officer to collect the facts and provide sufficient evidence for the criminal to be brought to justice.

2. The investigator's negative attitude made it impossible for the suspect to have proved his innocence.

3. There is no limit for the fine to be imposed on indictment.

4. The Police and Criminal Evidence Act 1984 provides a general conditional power for the police to arrest a person reasonably suspected of any offence with or without a warrant used by magistrates.

5. Who can explain why it's possible for some people to commit crimes without having motives?

6. It is only for the jury to decide whether the defendant is guilty or not guilty.

7. It's for the state to protect the people and society itself from crime.

**Ex. 12.** *Transform the following sentences using:*

*a) Complex Object:*

1. We know that alcoholism, drugs, vagrancy and homelessness are the factors leading to crime.

2. The doctor found that the man had been murdered several hours earlier.

3. I suppose that you will be cross-examined.

4. The attorney expects that his client will tell the truth.

5. I still consider that they are not guilty.

6. The police believe that the millionaire's son was kidnapped.

7. The defence counsel declared that the defendant was not mixed up in the conspiracy.

8. I know that they have been interrogating the suspect for an hour.

9. We think that the case was dismissed for lack of evidence.

10. It is known that the most typical and dangerous corruption-related crimes include bribe-taking and bribe-giving, theft and embezzlement or abuse of power or position.

*b) Complex Subject*

1. Scientists consider that corruption-related crimes are the most disruptive for the entire system of public administration. Corruption-related crimes are considered to ... .

2. The suspect need not prove anything. The suspect is unlikely to ... .

3. He is suspected of arson. He seems to ... .
4. English law has rather a long definition of murder. English law is known to ...
5. The defendant's acts caused the death of the victim. The defendant's acts happened to ... .
6. Mr. Brown was found not guilty. Mr. Brown is said to ... .
7. The criminal was caught red handed. The criminal was reported to ... .
8. The victim has been poisoned. The victim is believed to ... .
9. They are cross-examining the suspect. They are supposed to ... .
  
10. The number of violent crimes is increasing. The number of violent crimes appears to ... .

*c) For – Infinitive Construction*

1. There are coroners' courts. They investigate violent, sudden or unnatural deaths.
2. It was very dark. The witness could not see the details.
3. The policy of state towards crime must adjust the changes happening in society and in the world. It must react to them effectively.
4. The victim was terrified. He could not defend himself.
5. He is very young. He can't be put on trial.
6. The amount of crime on transport is frightening. It can't be neglected.
7. I am very poor. I can't make bond.
8. The man is honest. He will not steal the money.
9. There are administrative tribunals in the country. They deal with professional standards, disputes between individuals and disputes between individuals and government departments.

**Ex. 13.** *Define the Infinitive Constructions, if any. Translate the sentences.*

1. Probation has proved to be the most successful way of dealing with very young offenders. 2. Traditionally, delinquency is considered to mean such offences as truancy, assault, theft, arson or vandalism, etc. 3. The task facing the police in many areas is to stop criminals who murder for no apparent reason. 4. Such crimes are very difficult to solve. 5. At least twenty women are reported to have been found dead near the Seattle river. 6. Police suppose a man known as the "Green River killer" to be their murderer. 7. A man dubbed Jack the Ripper who murdered seven women in London in 1888 was the first to be recognized as a serial killer. 8. Only in recent years have the law-enforcement authority noticed the number of such crimes to be increasing. 9. To reveal common trends experts have interviewed more than 40 persons convicted of multiple-murder cases. 10. Such criminals appear to be looking primarily for female and juvenile victims. 11. Typically, serial killers have a desire to dominate others. 12. If the defendants are caught they are frequently found to be keen on pornography.

**Ex. 14.** *Use the proper form of the Infinitive and translate the sentences.*

1. Criminals can (to punish) in many different ways, but the worst one is death penalty.

2. Young people who commit crimes are known (to try) by special courts called Juvenile Courts.

3. He is unlikely (to justify). Everybody suspects him (to steal) money from the bank.

4. The young man was made (to sign) a paper admitting his guilt, but he believes his innocence (to prove) in trial.

5. I know them (to interrogate) the suspect for an hour already.

6. We expected this case (to discuss) by the Magistrates already.

7. He started his legal career not because he wanted (to earn) his living, but he wanted (to know) and (not to forget) for investigating the most serious crimes.

8. The doctor proved the man (to kill) late at night.

9. A passer-by saw a man (to shoot) a policeman, and didn't let him (to escape) the arrest.

10. He is known (to arrest and charge) with murder.

11. In the eyes of law children under the age of 10 are incapable (to perform) a crime.

12. Residents are known (to advise) to install alarms as there have been so many cases of robbery in the streets of late.

## **PART 6. SENTENCING AND PUNISHMENT**

**Ex. 1.** *Read and translate the text.*

### **General Aims of Punishment in Britain**

The main object of Criminal Law is to punish the wrong-doer. The nature of punishment is an important aspect of the Criminal Law. Punishment has as its objects both justice (retribution) and deterrence both of the wrong-doer and other potential criminals.

The punishment should fit the crime. Penalty must be imposed first of all according to the gravity of the crime committed, the personality of an offender, the nature of his guilt and other circumstances relevant to the case in hand. But no form of punishment can ever be totally rational – there will inevitably be a large element of subjective judgement.

The courts now have a wide range of different types of sentences they may pass. They range from the life sentence to community service orders (the death penalty for murder was first abolished for a five-year period in 1965; it was then completely abolished in 1969, although opinion polls seemed to show that over two-thirds of the public were in favour of it).

Offences themselves and therefore the punishments for those offences are graded according to social danger. The heaviest penalties are for premeditated murder, robbery, theft, bribe taking, large scale embezzlement, and grave offences committed by individuals with a past record of serious crimes.

If a person is found guilty of a fairly small offence, and has no previous convictions, he may receive no punishment at all, but be told that if he does wrong again the first offence will be taken into account along with the next.

Apart from imprisonment there is a range of non-custodial sentences that the courts can impose. Suspended sentences can only be applied to an offence which carries a maximum sentence of two years' imprisonment or less. During the period that the sen-

tence stays suspended, the offender is obliged to remain of good behaviour – that is not to commit another offence.

A different form of supervision is the probation order. No sentence is involved in this case, the offender is left at liberty, but is obliged to report regularly to a probation officer, who is a trained professional worker. A probation order will be for a period of between one and three years.

A further variation within non-custodial sentencing is that of Community Service Order. The court may order any offender over the age of 16 to under-take specific, unpaid work that will be of benefit to the community over a period of twelve months for a minimum of 40 hours and a maximum of 240. Any break of the order by the offender will make him liable to fines or other punishments. Of course, the common form of non-custodial punishment is that of monetary deprivation – the fine. The courts may attach a number of conditions to fines for example, the offender may be required to have a regular sum deducted from the weekly or monthly earnings; he or she may be supervised by a probation officer. The offender may also be made the subject of a compensation order for injury or damage suffered by another person as a result of his or her wrong-doing or a restoration order (returning stolen goods or goods bought out of the proceeds of stolen property).

Punishment by the state can only be justified if there are in its objective two key elements, namely the reduction of crime and the promotion of respect for the criminal code.

Contemporary legislators make considerable attempts to base modern forms of punishment on the notions of fairness, proportionality, prevention, individual and general deterrence, education and reform.

Some attention under the English sentencing system is paid towards directing efforts in reform and education towards young offenders in the hope that at least they should be saved from further transgressions. The younger the person is cured of criminal tendencies, the fewer habitual law-breakers will there be in adult life.

**Ex. 2.** *Read the parts of the text containing the answers to the following questions:*

1. Why is the main object of Criminal Law to punish the wrong-doer?
2. Why should the punishment fit the crime?
  3. What types of sentences may the courts pass?
  4. When is a person found guilty of a fairly small offence?
  5. What is meant under “suspended sentence”?
  6. What are the actions of the offender during the probation order?
  7. When does a person receive no punishment?
  8. What measures are taken by legislators and the English sentencing system towards young offenders?

**Ex. 3.** *Discuss the following points using words and phrases from the text:*

- 1) Which forms of punishment are effective deterrents?
- 2) Which punishments can help to rehabilitate an offender?
- 3) What do you think are the main aims of the penal system in your country?

**Ex. 4.** *How can you qualify the following wrongs committed? What punishments can you suggest?*

- a) A person who robbed a shop and wounded the owner with a knife.
- b) A person who set fire to his or her flat for the insurance money.
- c) A person in the Government who has been spying for a foreign power.
- d) A person who took a bar of chocolate from a shop without paying for it.
- e) A person who bought a camera with a false cheque.
- f) A person who murdered a policeman in cold blood.

g) A person who kidnapped a small child and held him to ransom. (The child was unhurt.)

h) A person who hi-jacked a plane. In the rescue attempt one passenger died of a heart attack.

i) A person caught selling cocaine and heroin.

j) A person who saw a woman being attacked, went to her aid and accidentally killed her attacker.

k) A person who refuses to do military service.

l) A person who stole a car, then crashed into another one, seriously injuring the driver.

m) A football supporter who threw a brick at a referee during a football match. (The brick struck the referee on the leg.)

**Ex 5.** *Read the text and get ready to discuss its main points.*

### **Capital Punishment**

Until medieval times, the death penalty was a frequently imposed criminal sanction. During the sixteenth century there was a shift in practice in Europe from the death penalty and corporal punishment to imprisonment, which has since become the major sanction for criminal acts. Although capital punishment is currently being fought by a number of organized groups and is abolished or at least restricted in many countries, it is still part of the crime control system of the majority of the world.

International efforts to abolish capital punishment have not been very successful. The chances of bringing about changes are much worse at the international level than at the regional level, where unanimity is easier to achieve.

The more society has felt obliged to provide justification for the death penalty, the more studies have tried to prove or disprove the deterrent effect of capital punishment. The deterrence theory envisions potential criminals weighing the potential punishment before committing crimes. But murders are more often than not committed out of conflict situations that involve emotions rather than rational calculations. Moreover, the risk of execution is

difficult to take into account because potential murderers are more likely to dissociate themselves with the people executed because they regard them as unsuccessful and socially inferior.

Current research indicates that the death penalty has no consistent, demonstrable deterrent effect. There is even evidence that executions have the opposite, brutalizing effect meaning that homicide rates increase slightly several weeks after an execution.

Public opinion is currently calling for the re-establishment or the extension of capital punishment because of rising crime rates, growing violence and ineffectiveness of other forms of punishment. Although state legislatures and politicians must do everything they can to fight crime and achieve more public safety, they must not respond to such emotional demands directly.

**Ex. 6.** *How are the following ideas expressed in the text:*

- a) to keep in a place or state from which one cannot get out as one wishes;
- b) punishment for breaking a law, rule, or agreement in law;
- c) a good reason for doing something;
- d) to turn aside or prevent from acting (as by fear, threats);
- e) lawful killing as a punishment;
- f) an act of murder;
- g) use of bodily force on others.

**Ex. 7.** *Complete the following sentences:*

- 2. The death penalty, until medieval time ...
- 3. In Europe during the sixteenth century there was a shift ...
- 4. Capital punishment is currently being fought ...
- 5. The chances to abolish capital punishment ...
- 6. Rational calculations are not taken into account ...
- 7. Public opinion is calling for ...
- 8. State legislatures have to fight ...

**Ex. 8.** *Answer the following questions:*

1. What is the definition to the term “capital punishment”?
2. What is the aim of the capital punishment?
3. For what crimes can this penalty be imposed?
4. How does public opinion assess the deterrent effect of the death penalty?

**Ex. 9.** *Explain and expand on the following:*

1. The abolition of death penalty at the international level.
2. Capital punishment and the deterrence theory.
3. Current research and death penalty.
4. Legislatures and politicians on death penalty.

### **Grammar: The Gerund**

**Ex. 10.** *Analyze and translate the sentences containing the Gerund.*

There are some offences where the defendant is given the choice of *having* his case heard in the Magistrates' Court or the Crown Court. 2. The process of *taking* an action from the lower court to the highest court may be very time-consuming and costly. 3. In any legal system there are institutions for *creating, modifying, abolishing* and *applying* the law. 4. I have most serious objections to this witness *being summoned* by the prosecution. 5. You should confine yourself to *saying* what you saw there. 6. *His pleading* guilty to all the offences should be a credit to him. 7. *Her testifying* against her brother surprised everybody. 8. The right of appeal usually depends upon *the appellant being* able to show certain reasons for dissatisfaction. 9. He doesn't feel like *saying* anything about his being an ex-convict. 10. You shouldn't run the risk of *taking up* this case. 11. Such a statement couldn't help *causing* general excitement in the courtroom.

**Ex. 11.** *Choose the correct form.*

1. The suspect denies (having taken, having been taken) part in that robbery.
2. The case needs (investigating, being investigated) as soon as possible.
3. (Denying, having denied) the facts would worsen the situation for you.
4. I don't insist on your (doing, having done) anything against your will.
5. Everybody is sure of his (winning, having won) the case tomorrow.
6. We knew nothing of the jury (passing, having passed) the verdict already.
7. They insist on (telling, being told) the truth.
8. He denies (seeing, having seen) me last week.
9. He can't stand (involving, being involved) into somebody's hole and corner affairs.
10. I am suspicious about his not (offering, having offered) the pistol in evidence.
11. The prosecutor asked another question for the purpose of (clarifying, being clarified) the details.
12. The judicial branch has the responsibility of (judging, being judged) the constitutionality of Acts of law.

**Ex. 12.** *Use the proper form of the Gerund.*

1. He was charged with (not to take) the victim to hospital after the accident.
2. He is responsible for the criminals (not to arrest) yet.
3. One of the aspects of punishment implies that an offender must be afraid of (to punish).
4. Instead of (to place) in jail the accused was released on bail.
5. The main task of police work is the task of (to protect) society against crime.

6. The man was accused of (to violate) the traffic rules.

7. The problem of (to obtain) a warrant for arrest is of growing importance.

8. Agents of FBI are mainly concerned with (to gather) and (to record) the information in order to present a case for prosecution.

9. (To arrest) a person is (to take) him to custody for the purpose of (to charge) him with a special offence.

10. If evidence was obtained by law enforcement agencies without (to observe) the constitutional rights of the accused, the accused may ask the court to prevent the evidence from (to use) in his trial.

11. Many famous jurists define a crime as an act of (to violate) the law of the state.

12. The problem may be summarized by (to say) that a criminal offence is an offence against any private right and punishable by the state.

**Ex. 13.** *Insert either Infinitive or Gerund in the proper form.*

1. Before the trial started Perry Mason felt quite sure of (to win, winning) the case but after the first day of hearing he began to lose confidence. 2. Mason is sure (to win, winning) the case: he is a veteran trial lawyer. 3. Do you remember (to see, seeing) the defendant that day? 4. Remember (to put down, putting down) the date of the trial in the protocol. 5. I will never forget (to appear, appearing) for the defence for the first time. 6. He always forgets (to take, taking) his glasses and can't read a single paper. 7. I don't regret (to take up, taking up) the case of this man. 8. I regret (to inform, informing) you that you will remain in custody until you next appear in the court. 9. Some defendants prefer (to have, having) their cases heard in the Crown Court. 10. I prefer (to get, getting) a professional lawyer to represent me in a higher court.

**Ex. 14.** Complete the sentences using the correct form of the Infinitive, the Participle or the Gerund. Define the Constructions with the Verbals, if any.

1. Important measures (*strengthen*) the criminal justice system have been taken in recent years.

2. Certain special powers are available to assist in (*prevent*) and (*investigate*) terrorist crimes.

3. The courts have powers (*trace, freeze and confiscate*) the proceeds of drug trafficking.

4. Money (*launder*) is the process by which illegally (*obtain*) property – from drugs or arms trafficking, terrorist activities or other serious crimes – is given the appearance of (*originate*) from a legitimate source.

5. The Prevention of Terrorism Act 1989 makes it unlawful (*support*) special organizations (*involve*) in terrorism (*connect*) with the affairs of Northern Ireland, and enables the Government (*exclude*) from all or part of Britain people who are believed (*involve*) in such terrorism.

6. There are also special powers for the police (*conduct*) security checks at ports and airports.

7. The Home Secretary and the Scottish and Northern Ireland Secretaries, together with police authorities and chief constables are responsible for an effective and efficient police service in Britain (*provide*).

8. The police serve the public by (*fight*) crime, (*preserve*) public order and (*keep*) in touch with the concerns of the community.

9. If magistrates are content (*deal*) with the case, the accused has the right (*choose*) trial by magistrates or trial by jury in the Crown Court.

10. An (*accuse*) person has the right (*employ*) a legal adviser and may (*grant*) legal aid from public funds.

11. If (*remain*) in custody, he or she may (*visit*) by a legal adviser (*ensure*) a properly (*prepare*) defence.

12. There are no coroners' courts in Scotland where the fiscal is responsible for (*investigate*) all sudden, suspicious or unexplained deaths.

## ДОПОЛНИТЕЛЬНОЕ ЧТЕНИЕ

### **The system and classification of law**

Every country has its own historically developing system of norms, legal institutions and branches of law, which regulates different types of social relations. In order to understand different aspects of a system of law it is necessary to look at various classifications of law, as branches of law are traditionally considered to be the most important elements of this system. Numerous classifications that vary from country to country usually reflect the peculiarities of different systems of law. Nevertheless there are the most common divisions singled out by contemporary jurists. Thus law is frequently classified into public and private and substantive and procedural. The distinction is often made between public and private law. Public law governs the relationship between the state and an individual, who is either a company or a citizen. Public law covers three subdivisions: constitutional, administrative and criminal law. Constitutional law deals with the structure of the government and the relations between private citizens and the government.

**Administrative law** deals with the decision-making of administrative units of government (for example, tribunals, boards or commissions) in such areas as police law, international trade, manufacturing, environment, taxation, immigration and transport.

**Criminal law**, or penal law, is the body of law that relates to crime, i.e. illegal conduct that is prohibited by the state and sets out the punishment to be imposed on those who break these laws. A crime is considered to be an offence against the public, although the actual victim may be an individual. This is because the state considers anti-social behaviour not simply as a matter between two individuals but as a danger to the well-being and order of society as a whole.

**Private law** is also known as civil law. It involves relationships between individuals, or private relationships between citizens and companies that are called parties to a contract.

**Tort law** deals with civil wrongs which result in physical, emotional. The main branches of private law are contract, tort, family, employment and land law.

**Contract law** deals with legally binding agreements between people or

or financial harm to a person or property. Tort cases comprise road accidents, defamation, product liability (for defective consumer products), copyright infringement, environmental pollution (toxic torts), etc.

**Family law** is an area of the law that deals with family-related issues such as marriage and divorce, adoption, custody of children, child abuse and alimony.

**Employment law** is law relating to the employment of workers, their contracts, conditions of work, trade unions and legal aspects of industrial relations. Employment law is also called labour law. Land law is the law which deals with rights and interests related to owning and using land. Land is the most important form of property, so the name land law is often used for the law of property. The next classification which is widely used is subdivision of law into substantive and procedural. There are many laws and legal rules found in statutes, cases decided by courts (legal precedents) and other sources that are applied by courts in order to decide lawsuits. These rules and principles of law are classified as substantive law. On the other hand, the legal procedures that provide how lawsuit is begun, how the trial is conducted, how appeals are filed, and how a judgment is enforced are called procedural law. In other words, substantive law is the part of the law that defines rights, and procedural law establishes the procedures which

enforce and protect these rights. For example, two parties entered into a contract, but then one of the parties breached this contract. The rules of bringing the breaching party into court and the conduct of the trial are rather mechanical and constitute procedural law. Whether the agreement was enforceable and whether the other party is entitled to damages are matters of substance and will be determined on the basis of the substantive law of contract.

### **The system of law in the UK**

The study of law distinguishes between public law and private law, but in legal practice in the UK the distinction between civil law and criminal law is more important to practicing lawyers. Public law relates to the state and is concerned with laws which govern processes in local and national government conflicts between an individual and the state. Private law is concerned with the relationships between individuals and corporations, and includes family law, contract law, property law, etc. Criminal law deals with certain forms of conduct for which the state reserves punishment, for example murder or theft. The state prosecutes the offender. Civil law concerns relationships between private persons, their rights and duties. It also deals with the conduct which may give rise to a claim by a legal person for compensation or injunction. When it comes to prosecution under the laws of the country it's common to speak about criminal offence but civil wrongs.

Criminal and civil proceedings are usually very different. In a criminal proceeding a prosecutor prosecutes a defendant. If the verdict is "guilty", the defendant is convicted. He will have a criminal record for the crime and will be punished by one of a variety of punishments ranging from life imprisonment to a fine, which is paid to a court. If the defendant is found "not guilty", he is acquitted and allowed to leave court without punishment. In civ-

il cases a claimant sues a defendant or brings a claim against him. The proceeding may result in judgement for the claimant, which means that the defendant is found liable and the judge may order the defendant to pay damages. The duty to prove a case is called the burden of proof. In criminal cases the burden of proof falls on the prosecution. In other words it's the duty of the prosecution to prove guilt, the defendant doesn't have to prove his innocence. This principle is called the presumption of innocence, which means that every person charged with a criminal offence is considered to be innocent until proved guilty. The degree of proof which makes the court sure that the person is guilty is called the standard of proof. The standard of proof is higher in a criminal action than in a civil one since the penalties are stricter. In a criminal case a prosecution must prove the guilt of a criminal "beyond reasonable doubt", which means that the prosecution must make the court sure that the defendant committed the crime. If the court is not sure or has a reason for the doubt, it must acquit the defendant. In a civil action the burden of proof is on the claimant. He is required to prove his case "on a balance of probabilities", i.e. to show that his case is more probable than not. But he doesn't have to make the court sure about it; it's enough to show that the defendant was probably guilty. One and the same offence may sometimes result in both kinds of prosecution, civil and criminal. For example, the driver who injured a passer-by will not only face criminal penalties imposed by a criminal court but may have to pay compensation for injuries ordered by a civil court.

### **Family Law**

Family law is a branch of law which deals with "domestic relations», it is concerned with such subjects as adoption, divorce, separation, paternity, custody, support and child care.

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

In some societies the family is thought to be so important that there is very little legal intervention in family life, for example in many Islamic countries. But in many parts of the world, the law now promotes the rights the rights of individuals within the family unit, and regulates family relations through legislation.

In general, the welfare of children is the biggest concern of family law. In most countries legal systems treat children differently from adults. In economically developed countries, there are limits on the type and amount of work a child is allowed to do. There are age limits on the rights and duties of citizens. In Britain as in many countries, there are special courts with very strong powers to control and transfer private property in the interests of children. Special courts deal with young people who commit crimes.

The laws in most countries place more emphasis upon marriages legally registered than social arrangements whereby people live together. In Britain, children born outside legitimate marriages have fewer rights to financial support from estranged fathers than legitimate children. In addition, if they are born outside the UK, they are less likely than legitimate children to be granted British citizenship. Their fathers have no automatic right to contact with them. Some welfare payments are calculated on a different basis according to whether recipients are married or not, and more procedures are available to a married woman than an unmarried one in seeking protection from domestic violence

In English law, some marriages may be dissolved or nullified. A couple may also seek a divorce. The procedure may be lengthy,

especially if one does not want to get divorced or if there are children. Divorce proceedings in England take place in certain County Courts known as divorce county courts. Some matters are also dealt with in the Family Division of the High Court. A divorce will not be issued until satisfactory arrangements have been made for any children of the marriage, including determining who is to have custody of the children. In case of property, the courts have to find balance between two principles. One of that is any division should fairly reflect how much each party contributed to the property they held together. Nowadays, courts look beyond legal ownership and cash contributions. Work done in the home, time spent caring for the family, even emotional support, are all considered as giving some rights to property.

### **Intellectual Property Law**

Intellectual property, often known as IP, is fast-moving and sometimes complex area of law. It covers a wide range of diverse issues and allows people to own their creativity and innovation in the same way they can own physical property. IP refers to the creations of mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce. The term “intellectual property” is connected with the intangible products of the intellect.

Under IP law owners are granted certain exclusive rights to a variety of intangible assets. Like other forms of property, IP can be bought and sold. IP laws are applicable both to natural persons and legal entities. Some of company’s most important assets are its intellectual property rights, which include patents, copyrights, trademarks, and trade secrets must be protected and secured. There are four general types of IP: (1) patents, (2) trademarks and trade dress, (3) copyright, (4) trade secret. The ability to recognize and

protect IP is important in businesses. Under Internet networks global expansion intellectual property laws have been updated to provide protection of domain holders, Internet site owners and computer software owners.

A patent is an exclusive right to make, use, and sell a new and useful process, machine, or product, granted to inventor for a certain period of time. Trademarks are generally names, logos or drawings used to indicate the identity of a business. Trademark status may also be granted to distinctive and unique packaging, colour combinations, building designs, and overall presentations. Service-marks also receive legal protection but are meant to distinguish services rather than products. Copyright applies to original creations in the literary, dramatic, musical and artistic fields, sound recordings and broadcasts, including software and multimedia. A trade secret is a business process or information that can't be patented, copyrighted or trademarked, and that must be protected from disclosure. A trade secret is defined by law as information including a formula, pattern, program, device, method, technique or process used in a business. This information gives its owner an opportunity to gain advantage over competitors, and thus must not be disclosed. A domain name is the strings of letters used to name organizations, that is an address of a computer network connection identifying the owner of the address. Industrial designs protect elements of product appearance (that is shape or pattern, not function) resulting from the feature of lines, colours, shape, texture of the product itself or its ornamentation. Each of the areas is governed by statutes which set out conditions for creation, the process of registration, rights of the registered owner, remedies for infringement and rights of the public to use the property.

## ЗАКЛЮЧЕНИЕ

Успешное овладение дисциплиной «Основы делового общения» способствует более полному формированию у магистрантов профессиональных компетенций, расширению их возможностей использовать аутентичные источники.

Данное учебное пособие построено таким образом, чтобы магистранты рассуждали и, анализируя, приходили к умозаключению, аргументировано его высказывали в форме обсуждения в парах, ролевых играх, опираясь на ранее полученные знания в области английского языка и правовых наук. Данный прием позволяет развивать индуктивно-дедуктивные способности, а также способствует развитию критического и творческого мышления магистрантов-юристов на английском языке.

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## ОГЛАВЛЕНИЕ

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## **ОСНОВЫ ДЕЛОВОГО ОБЩЕНИЯ**

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