INTERSTATE EDUCATIONAL ORGANIZATION
OF THE HIGHER EDUCATION
KYRGYZ-RUSSIAN SLAVIC UNIVERSITY
named after the first President of the Russian Federation B.N. Yeltsin

FACULTY OF LAW
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# PROFESSIONAL ENGLISH
# PUBLIC PROSECUTOR`S ACTIVITY
# INTERNATIONAL LAW
# CIVIL LAW

**The manual is for students seeking master`s degree in law on "Public Prosecutor`s activity", "Civil Law" and "International Law" as a major subject**

Bishkek • 2025

UDC 81’243:81’276.6-057.876
K 93

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Recommended for publication
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K 93 PROFESSIONAL ENGLISH PUBLIC PROSECUTOR`S ACTIVITY INTERNATIONAL LAW AND CIVIL LAW: The manual is for students seeking master`s degree in law on “Public Prosecutor`s activity”, “Civil law” and “International law” as a major subject. − Bishkek: KRSU Publishing House, 2025. – 158 p.

The purpose of the manual is the formation and development of skills necessary to use English in the field of professional communication. The manual is designed to develop the oral communicative skills, reading skills of scientific literature, skills of giving oral scientific speeches and academic writing and expand general scientific, special vocabulary. The manual contains original scientific and popular scientific texts that help broaden the horizons of students.

## CONTENT

# INTRODUCTION

This manual is designed to provide a brief and essentially practical guide to current teaching Professional English in "Public Prosecutor`s activity", "International Law" and "Civil Law".

The English language proved to be the main means of communication in the field of research, development and law. That is why postgraduate students or those seeking master`s degree have to understand the bulk of information that is provided in English. This textbook can be regarded a guide to reading scientific authentic legal texts in the fields of students concern.

The textbook consists of 3 chapters on particular field of law. Each chapter, in its turn, is divided into units. Each unit contains 6–8 tasks providing brainstorming activities, reading comprehension, vocabulary work, creative and interactive tasks, communication skills needed in the field of their research as well as tasks for development of skills of speaking and writing in English. The texts are selected in the way as to make all graduates and post-graduates be interested in the topics discussed, irrespective of their specialty and qualification.

All texts are accompanied by references of and links to the resources they are taken from. Some tasks were borrowed from specialized textbooks for lawyers: "Test your: professional English (law)" authored by Nick Brieger, "International Legal English" be Amy Krois-Lindner, "Professional English in Use: Finance" by Ian Mac Kenzie.

In Appendices postgraduates and master`s students can find some useful information about presentations, academic writing: tips how to write abstracts, annotations and summaries to any scientific articles, research paper or books.

The authors of the textbook would like to express their sincere gratitude to all those who will use this book for their studies of English. We hope it will be very useful and we wish master`s students and postgraduates all possible success in their researches, thesis and scientific careers.

# CHAPTER I

# PUBLIC PROSECUTOR'S ACTIVITY

## UNIT 1

*TASK 1. Read the following text.*

### WHAT IS SCIENCE?

To understand what science is, just look around you. What do you see? Perhaps, your hand on the mouse, a computer screen, papers, ballpoint pens, the family cat, the sun shining through the window. Science is, in one sense, our knowledge of all that – the stuff that is in the universe: from the tiniest subatomic particles in a single atom of the metal in your computer's circuits, to the nuclear reactions that formed the immense ball of gas that is our sun, to the complex chemical interactions and electrical fluctuations within your own body that allow you to read and understand these words. But just as importantly, science is also a reliable process by which we learn about all that stuff in the universe.

However, science is different from many other ways of learning because of the way it is done. Science relies on testing ideas with evidence gathered from the natural world.

This website will help you learn more about science as a process of learning about the natural world and access the parts of science that affect your life. Science helps satisfy the natural curiosity with which we are all born: why is the sky blue, how did the leopard get its spots, what is a solar eclipse?

With science, we can answer such questions without resorting to magical explanations. And science can lead to technological advances, as well as helping us learn about enormously important and useful topics, such as our health, the environment, and natural

hazards. Without science, the modern world would not be modern at all, and we still have much to learn. Millions of scientists all over the world are working to solve different parts of the puzzle of how the universe works, peering into its nooks and crannies, deploying their microscopes, telescopes, and other tools to unravel its secrets.

**Science** is complex and multi-faceted, but the most important characteristics of science are straightforward:

**Science** focuses exclusively on the natural world, and does not deal with supernatural explanations.

**Science** is a way of learning about what is in the natural world, how the natural world works, and how the natural world got to be the way it is. It is not simply a collection of facts; rather it is a path to understanding.

**Scientists** work in many different ways, but all science relies on testing ideas by figuring out what expectations are generated by an idea and making observations to find out whether those expectations hold true.

Accepted **scientific ideas** are reliable because they have been subjected to rigorous testing, but as new evidence is acquired and new perspectives emerge these ideas can be revised.

**Science** is a community endeavor. It relies on a system of checks and balances, which helps ensure that science moves in the direction of greater accuracy and understanding.

This system is facilitated by diversity within the scientific community, which offers a broad range of perspectives on scientific ideas. To many, science may seem like an arcane, ivory-towered institution – but that impression is based on a misunderstanding of science. In fact:

- Science affects your life everyday in all sorts of different ways.
- Science can be fun and is accessible to everyone.
- You can apply an understanding of how science works to your everyday life.

- Anyone can become a scientist – of the amateur or professional variety.

The word "science" probably brings to mind many different pictures: a fat textbook, white lab coats and microscopes, an astronomer peering through a telescope, a naturalist in the rainforest, Einstein's equations scribbled on a chalkboard, the launch of the space shuttle, bubbling beakers. All of those images reflect some aspect of science, but none of them provides a full picture because science has so many facets:

- **Science is both a body of knowledge and a process.** In school, science may sometimes seem like a collection of isolated and static facts listed in a textbook, but that's only a small part of the story. Just as importantly, science is also a process of discovery that allows us to link isolated facts into coherent and comprehensive understandings of the natural world.
- **Science is exciting.** Science is a way of discovering what's in the universe and how those things work today, how they worked in the past, and how they are likely to work in the future. Scientists are motivated by the thrill of seeing or figuring out something that no one has before.
- **Science is useful.** The knowledge generated by science is powerful and reliable. It can be used to develop new technologies, treat diseases, and deal with many other sorts of problems.
- **Science is ongoing.** Science is continually refining and expanding our knowledge of the universe, and as it does, it leads to new questions for future investigation. Science will never be "finished".
- **Science is a global human endeavor.** People all over the world participate in the process of science (from ***Understanding Science: An Overview***)/

*TASK 2. Match the words in the left column with their definitions in the right column.*

| | |
|---|---|
| 1. Atom | a) Continuing, or continuing to develop |
| 2. Multi-faceted | b) make it easier for a process or activity to happen |
| 3. Amateur | c) trust someone or something to do what you need or expect them to do |
| 4. Ongoing | d) practicing an art or occupation for the love of it, but not as a profession |
| 5. Coherent | e) exceeding of all ordinary bounds in size or amount or degree |
| 6. Facilitate | f) the smallest part of an element that can exist alone or combine with other substances to form molecules |
| 7. Accessible | g) easy to understand because the information is presented in an orderly and reasonable way |
| 8. Enormously | h) a statement in mathematics, showing that two quantities are equal |
| 9. Rely | i) having a variety of different and important features or elements. |
| 10. Equation | j) easy to obtain or use, to understand and enjoy |

*TASK 3. Fill in the gaps in the sentences below with the words from the list.*

| |
|---|
| Model, equip, clear, reinforce, argument, explicit, operations, distinguishable, formulate, theory |

1) It is important that the cognitive skills involved in such activities be defined in a … and rigorous enough way to make it possible

to specify how they develop and how this development is best supported educationally.

2) Students, it is claimed, should be able to … a question, design an investigation, analyze data, and draw conclusions.

3) Scientific thinking is more closely aligned with … than with experiment and needs to be distinguished from scientific understanding (of any particular content).

4) Young children are especially insensitive to the distinction between … and evidence when they are asked to justify simple knowledge claims.

5) Skilled scientific thinking always entails the coordination of theories and evidence, but coordination cannot occur unless the two are encoded and represented as … entities.

6) The phases of scientific thinking themselves – inquiry, analysis, inference, and argument – require that the process of theory-evidence coordination become … and intentional, in contrast to the implicit theory revision that occurs without awareness as young children's understandings come into contact with new evidence.

7) Research suggests that children lack a mental … of multivariable causality that most inquiry learning assumes.

8) Educators want children to become skilled scientific thinkers because they believe that these skills will … them for productive adult lives.

9) Social scaffolding (supporting) may assist less able collaborators to monitor and manage strategic … in a way that they cannot yet do alone.

10) The two endeavors … one another: understanding informs practice and practice enhances understanding.

*TASK 4. Learn the following words and word combinations with 'science' and 'scientist'.*

| | | |
|---|---|---|
| To advance science<br>To promote science<br>To foster science | Applied science<br>Basic science<br>Behavioral science<br>Domestic science<br>Information science<br>Library science<br>Linguistic science<br>Military science<br>Natural science<br>Physical science<br>Political science<br>Popular science<br>Social science<br>Space science | An exact science<br>a nuclear scientist<br>a political scientist<br>a social scientist |

*TASK 5. Explain the difference between the following synonyms:*

| | |
|---|---|
| research<br>survey<br>exploration<br>examination<br>analysis | fact-finding<br>investigation<br>enquiry (inquiry)<br>study<br>discovery<br>ignorance |

*TASK 6.* ***Scientific Debate: Ethics & Innovation.*** *Divide into teams of scientists and independent judges. Choose a controversial scientific topic below. Research the topic, prepare arguments, and debate your stance. Judges score based on evidence, logical reasoning, and rebuttals.*

- Should AI be granted legal rights?
- Is gene editing (CRISPR) ethical?
- Should scientific data be open access?

## UNIT 2

*TASK 1. Read the following quotes about prosecutors and express your own opinion about prosecution in general and your field of science working in pairs or in groups.*

1) If you're a prosecutor, and you believe the defendant is guilty, you only talk about ultimate truth, but not intermediate truth. If you're the defense attorney, you care deeply about intermediate truth, but you tend to neglect ultimate truth. ~ **Alan Dershowitz;**
2) Independence sounds good in theory, but in practice, it is mutually exclusive with accountability. The more independence you give a prosecutor, the less you make that prosecutor accountable to the public and regular checks and balances. ~**Neal Katyal;**
3) "I don't view prosecutors and attorneys as natural enemies. ... Though their roles are oppositional, the two simply have different roles to play in pursuit of the larger purpose, realizing the rule of law. ... This is not to deny that the will to win drives those efforts. ... Rather, it is simply to insist that ultimately, neither the accused nor society is served unless the integrity of the system is set above the expedient purposes of either side." ~ **Sonia Sotomayor;**
4) "Most of the prosecutors I know are good people who are committed to protecting us from those who would prey on us.

But these days, I sometimes run into prosecutors who just don't seem to have the character we used to have 20–30 years ago. People need to understand that prosecutors are lawyers, and like my grandmama once told me, a law degree is a license to lie." ~ **Christopher Darden.**

(Source: **https://www.azquotes.com/quotes/topics/prosecutor.html**)

*TASK 2. Read the following text.*

## THE SUBJECT AND METHOD

## OF THE THEORY OF LAW AND STATE

The jurisprudence is the basis of the legal science. It is the core of the whole legal knowledge.

The subject of jurisprudence is the most common regularities of appearance, functioning and development of the law and the state, their substance, structure, main elements, principals, institutions.

The jurisprudence covers all levels of the governmental and legal activities, exposes the substance of the state and the law, their functions, role, social purposes, fundamental connections and relations determining trends and ways of development of a specific sphere of social life, and on this basis forms the main fundamental conclusions and terms about the state and the law. The jurisprudence is a science with fundamental character. Together with other sciences studying the main branches of law, it forms scientific and theoretical basis for the whole Russian legal science. The jurisprudence is the introductory discipline. It starts legal studying. Without studying the basic categories and terms, process of lawmaking, law enforcement, definition of legal norms, without knowledge of the substance of such events as legality, legal order, legal relations, without getting acquainted with the main sources of law it is impossible to enter into the complicated and ambiguous world of jurisprudence, it is impossible to assimilate and fix the branch-wise and applicable legal knowledge.

The jurisprudence is an abstract science as its categories and terms are mostly abstracted from the direct events and processes. However, it is a mistake to think that the theory is completely separated from the practical tasks, real social life. Indeed, jurisprudence studies such wide categories as the law, legal relations, delicts and some other. But these terms themselves are the result of deduction and abstraction of the specific facts and relations. Thus, for example, the research of the crimes, administrative and disciplinary offences in different branches of law forms the basis of general-theoretical term «delict». The terms of the jurisprudence reflect the common situation integrating different spheres of legal science. The jurisprudence on the basis of the direct facts detects the regularities of the state and legal events.

The question of the sequence of the words (the state and the law) in the name of the discipline and the legal science can not be considered as idle. The problem of the priority of the state and the law has the deep philosophic character, covering the categories of the first and the second, the reason and the result, the basic and the derivative. The extent of the involvement to the «The subject and the method." Appearance, formation and functioning of each of the phenomena is considered as well.

Let's examine the arguments given to each of the variants. The most widespread is the name «The theory of the state and the law». Its wide acknowledgement was promoted by a number of factors whose content is mentioned further in this textbook. We will just mention them for now: the Continental legal family, the domination of the positivists' views. An important role was played by the Soviet doctrine, based on the Marxism's understanding of law. In accordance with this conception the state is given the leading role in every sense: meaningful and chronicle. Thus, the state appearing as a result of the abstract of the private property and the division of the society to classes, had to produce a special mechanism to protect its rights. This exact role is given to the law. It is understood to be the result of the state's activities and the instrument of its protection. The purpose of law is to guarantee the state's interests.

Such approach, described in plain form, forms the bases of «the theory of the state and the law». This understanding was and still is traditional for Russia, what is in no small measure explained by its support by the state.

The treatment of the theory with the major role of the law in it is expressed in the name «the theory of law and the state». The fundamental role of the state is based on the idea that the law has appeared before the state. Indeed, there are a lot of evidence that the law has appeared during before-the-state period, when the humanity was primigenial. Then the state appeared and tried to control the law. However, it appeared to be impossible to the full extent because the customs, principals, doctrines, legal conscious, religions and behavior samples are not connected with the state. They appear and disappear without the influence of state. This treatment doesn't cut the connection between the state and the law, but it gives the role of one of the other sources of law to the state and proclaims the state to be the warrant of the law. The mergence of the law and the state is obvious only at the lawmaking and law implementation. The lawmaking is defined as the state's activity, the activity of its officials aimed at adoption, amending and cancellation of legal acts. Within the lawmaking process the state demonstrates its powerful nature, the opportunity to force the citizens to the fulfillment of its requirements. Indeed, as far as we are speaking about the punishment and the duress there is no power equal to the state. It has the monopoly on the prisons, military forces, police, courts and other authorities. There is an important part of the legal phenomena left out of the scope of the state's authority, and the state may protect them from violations. (Source: **https://cyberleninka.ru/article/n/the-subject-and-the-method-of-the-theory-of-law-and-state-jurisprudence**)

*TASK 3. Match the following words to their definitions.*

| | |
|---|---|
| 1. Fundamental | a) legal theory is the theoretical study of law |
| 2. Primigenial | b) a system of rules that are created and enforced through social or governmental institutions to regulate behavior |
| 3. Process | c) a term in civil law jurisdictions for a civil |
| 4. Legal | d) wrong consisting of an intentional |
| 5. Philosophy of law | e) branch of philosophy that investigates the nature of law |
| 6. Jurisprudence | f) of or relating to law |
| 7. Law | g) is a set of recurrent or periodic activities that interact to produce a result |
| | h) serving as a basis supporting existence or determining essential structure or function |
| | i) relating to an early stage of existence |

*TASK 4. Read the sentences filling the gaps with the words from the list below.*

| |
|---|
| Democratic, law, Constitution, legal system, legislation, obligation, legal, Human Rights Court, national legislation |

1) The doctrine based on the priority of …. seems to be more tolerant, adequate to the … values in comparison with the state-focused theories.
2) Even more, at the … of the Russian Federation of 1993 the conception of the priority of law above the state was promulgated.
3) Thus, article 15 of the Constitution states that the generally recognized principles and norms of the international law and

the international treaties are the part of the … of the Russian Federation.

4) But these norms are not produced by the Russian state, and by no state at all, they are not national ….
5) This law is allocated by supernational and out-of-state experience of the humanity.
6) Russia does not only recognize this system of values to be the law, but it assumes the …to limit its own … freedom by the frame of the general experience of the humanity.
7) The years passed from the time of the adoption of the Russian Constitution (1993) and the cases considered by the … involving the citizens of the Russian Federation have shown that the … is quite weak facing the supernational law.

*TASK 5. Learn the following words and word combinations with 'Law'.*

| | |
|---|---|
| Law | • Breaking the law<br>• Against the law<br>• Within the law<br>• Above the law<br>• State law<br>• Pass a law<br>• Police the law<br>• Law-abiding<br>• Law breaker<br>• Law court |

*TASK 6.* ***Science Communication Challenge.*** *Explain complex scientific concepts to non-experts. Choose a format below or create your own, and adapt scientific language from task above to different audiences.*

1. To a **10-year-old child.**
2. To a **policymaker.**
3. To a **fellow scientist in another field.**

*TASK 7. Read the following text and make up a summary (3–5 sentences).*

## JURISPRUDENCE IN THE SYSTEM OF SCIENCES ABOUT SOCIETY, PERSON AND STATE

Jurisprudence is a part of social sciences, which is closely connected with other sciences. For example, it is closely connected with the sociology. Under the scope of the jurisprudence, we observe all legal events at the system of the social events, emphasizing their specialties. Thus, for example, the law itself appears to be one of the regulators of the social relations. Together with the law moral, ethical, ideological, corporative, religious norms deal with this problem. The law, having all the characteristics of the social norms, has some important differences: only the law is enforced by the state, has the written form, the system, has some other distinctive characteristics. The fact that we observe the legal norm within the system of the social norms, gives an opportunity to search for the common and specific features of the legal and moral norms, legal and religious norms. That is why we search for the reflection of the ideas of justice at the law, we wait for the legal acts corresponding to the moral and religious beliefs of the people from the legislator.

The jurisprudence has close connections with the political science. The basic questions for the political science – the political power, the state, the political system, the public associations, – also play an important role at the jurisprudence. But it is wrong to define this as the duplication or a simple borrowing. When the abovementioned terms are substantial and form the basis of the system of science for the political science, for the jurisprudence they play the secondary role, contributing to the core term of jurisprudence – the law. All the elements of the political system and the state itself within the theory of law are observed at the retrospect of the law. Thus, for example, the state at the theory of law is observed as the source of legal acts, as the guarantor of the legal prescriptions.

(Source: **https://cyberleninka.ru/article/n/the-subject-and-the-method-of-the-theory-of-law-and-state-jurisprudence**)

*TASK 8. Answer the following questions below.*

1. What part of the social sciences is jurisprudence connected with? Why?
2. What features are observed in jurisprudence?
3. What characteristics does social law have?
4. What is the connection between political science and jurisprudence?
5. What features play an important role in jurisprudence in political science?
6. What connects jurisprudence with sociology and political science?

*TASK 9. Translate the following text into English in written form.*

## АКТУАЛЬНЫЕ ПРОБЛЕМЫ И ПЕРСПЕКТИВЫ ВЫСШЕГО ЮРИДИЧЕСКОГО ОБРАЗОВАНИЯ В РОССИЙСКОЙ ФЕДЕРАЦИИ

По мнению многих ученых и практиков, именно последнее десятилетие внесло существенные коррективы в преодоление острых проблем высшего юридического образования в России. Этот период является одним из самых противоречивых в своем содержании, который поставил под сомнение всю важность и престиж юридической профессии, ее способность быть инструментом для осуществления социального и политического развития страны. Тем не менее, сложившаяся таким образом сегодня система высшего юридического образования довольно сильно отличается от системы, функционировавшей в советское время, и нынешнее ее состояние оставляет желать лучшего. Ввиду этого, с целью изучения назревших проблем высшего юридического образования в РФ, предлагаю провести следующий анализ наиболее значимых из них.

1. Трансформация идеи образования в качестве духовного блага в идею образования как услуги привело к серьезному, масштабному реформированию юридического образования. Сформировавшаяся в период рыночной экономики система образования стала ориентироваться в понимании юриспруденции на некий определенный продукт, который должен был быть предложен потребителю. В свою очередь, сложившаяся ситуация увеличила долю негосударственных образовательных учреждений высшего образования, что повлекло сопутствующее соперничество между университетами. Впоследствии претерпевает изменения и социально-психологический аспект восприятия юридического образования. Первое место принадлежит не качеству образования и подготовке элиты для государственного управления, а получению выгоды в форме прибыли от предоставления образовательных услуг. Эта ситуация нанесла серьёзный ущерб всей системе юридического образования и самому статусу юридических университетов. Некоторые российские и зарубежные ученые в области образования рассматривают в таком развитии высшей школы отказ от идеологической основы университетов как источника духовного развития и роста каждой личности, превращение университетов в субъектов рыночных отношений. В данной ситуации коммерческая направленность является скорее способом достижения финансовой выгоды, а не показателем, побуждающим формирование качественного юридического образования за счет конкуренции между учебными заведениями.

2. Принятие обусловленного трансформацией как образовательной среды, так и начал отбора в вузы, характера массовости высшим юридическим образованием. В юридической литературе справедливо отмечается тот факт, что подготовка юристов в России во все времена была задачей воспитания и обучения государственно мыслящих юристов и представляла особый интерес для органов власти. Следовательно, юридические вузы и факультеты конструировались изначально и оставались таковыми до сравнительно недавнего времени как школы для элиты российского общества. И в действительности, государство

в первую очередь заботится о подготовке качественных юристов-профессионалов в области правоприменения и законотворчества, так как это пополняет его личный кадровый резерв. Исходя из этого, количество бюджетных мест в юридических вузах должно увеличиваться, а не уменьшаться, в крайнем случае оставаться на том же уровне. Конечно, представители технических специальностей стратегически необходимы и требуются, но государству, позиционирующему верховенство закона, нужны и юристы соответствующих квалификаций, которые отвечают требованиям специальности и уровню подготовки кадров, а также прошли строгий комплекс отбора.

3. Принятие двухуровневой подготовки юристов – магистратуры и бакалавриата, включение юридического образования в Болонский процесс. Он призван создать единое образовательное пространство в Европе, а также предоставить выпускникам возможность продолжить обучение в одной из европейских стран и впоследствии трудоустроиться в них. Однако, вопросы данной реформации в большинстве своем не учитывали индивидуальности начал российского образовательного процесса и остались нерешенными. Признание Российской Федерацией положений Болонской системы не рассматривало специфику конкретных направлений подготовки кадров. Юридическое образование носит национальную направленность в любой стране мира и не дает таким образом право осуществлять профессиональную деятельность в другой стране без получения там полного образования. Следовательно, такая система не может быть применена к высшему юридическому образованию.

По сути, юридическая подготовка в вузах может осуществляться только на двух уровнях. В соответствии с законодательством и юридической практикой степень бакалавра не является подходящей для профессиональной деятельности. Согласно Закону РФ «О статусе судей в Российской Федерации», в качестве образовательного разграничения для занятия должности судьи предусмотрено наличие высшего образования не ниже

диплома специалиста или магистра. Это означает, что юрист со степенью бакалавра не может быть принят в качестве судьи, впоследствии они и сталкиваются при трудоустройстве с трудностью, работодатели их не воспринимают в качестве специалистов требуемого показателя подготовки. В целом, существуют непреодолимые национальные барьеры в сфере гуманитарных направлений, не позволяющие говорить об унификации образования, взаимном признании степеней и так называемом допуске к профессиональной деятельности.

4. Вопросы, связанные с регулированием органами власти образовательных стандартов, остаются также неразрешенными. Во-первых, вузы делятся на две группы. К первой группе относятся те из них, которые могут заниматься разработкой собственных стандартов. Вторую группу вузов составляют те, которые должны соответствовать требованиям ФГОС, утвержденного приказом Министерства науки и высшего образования РФ. В то же время все перечисленные выше вопросы не имеют однозначного решения, ввиду чего это не позволяет покрыть их узкими рамками этой статьи. Кроме того, стоит добавить и то, что сущность поставленной проблемы определяется более высоким уровнем высшего юридического образования в нашей стране в целом, а также комплексной юридической наукой и практикой.

(Source: **https://cyberleninka.ru/article/n/aktualnye-problemy-i-perspektivy-vysshego-yuridicheskogo-obrazovaniya-v-rossiyskoy-federatsii**)

*TASK 10.* ***Round Table****. Discuss problems outlined in the task 8 following the plan below.*

1. Say if you agree or disagree with the author`s opinion proving with examples from your experience.
2. Compare current issues of higher legal education in Kyrgyzstan.
3. Suggest possible solutions to the problems.

## UNIT 3

*TASK 1. Read the following text.*

### THE SUBJECT AND SYSTEM OF THE COURSE "PROSECUTOR'S SUPERVISION." CORRELATION OF THE COURSE WITH OTHER LEGAL ACADEMIC DISCIPLINES

The discipline "Prosecutor's supervision" is studied in higher educational institutions of a legal profile. Within its framework, students gain knowledge about the place and role of the prosecutor's office in the structure of state bodies of Russia in general and in the system of law enforcement agencies in particular. Students received basic information about the prosecutor's office, its main areas of activity, including prosecutor's supervision, in the framework of the law enforcement bodies that was previously studied. Students are already familiar with the system and structure of the prosecutor's office, its tasks and basic functions.

The discipline "Prosecutor's supervision" is designed to give students new, more in-depth knowledge about the organization and activities of the prosecutor's office, the goals and objectives, the main directions of its activities (functions), and the powers of prosecutors. Moreover, although the discipline is called "Prosecutor's Supervision," its content goes beyond the scope of the title, because when studying this discipline, students consider not only supervisory, but also other activities of the prosecution authorities. Its subject determines the content of the course "Prosecutor's supervision".

The subject of the course includes a circle of those issues that are subject to study in this discipline. It is necessary to distinguish the subject of the course in a broad and narrow sense. The subject of the course in the broad sense is revealed in the concepts, problems and positions that are studied in it. When studying this discipline, students get acquainted with new legal concepts and definitions, study the system,

structure of the prosecutor's office, the principles of its organization and activities, the activities of the prosecutor's office and the powers of prosecutors in the exercise of supervision and other functions. The subject of the course covers the history of the formation and development of the prosecutor's office, etc. The subject of the course in a narrow (direct) sense is the norms of legislative and other regulatory legal acts on the organization and activities of the prosecutor's office. At the same time, the subject of the study of discipline includes the norms of a number of branches of the Russian Federation (criminal procedure, civil procedure, administrative, arbitration and procedural law), in which the powers of prosecutors related to their participation in the consideration of cases by courts are fixed. A course system should be understood as a logically coherent sequence of studying the course issues that form its subject. The course system is determined by its curriculum.

In accordance with the curriculum, the course "Prosecutor's supervision" consists of several topics. Among them, one can single out both general and special topics. The first group includes topics containing information about the concept and purpose of the prosecutor's office and prosecutorial supervision; the place and role of the prosecutor's office in the structure of state authorities; system and organization of the prosecutor's office; areas of activity (functions) of the prosecutor's office. Special topics include information on specific activities of the prosecutor's office. This information is: about individual branches and under branches of prosecutor's supervision; on the participation of the prosecutor in the consideration by the courts of criminal, civil and arbitration cases; on coordination of the activities of law enforcement agencies in combating crime carried out by the prosecutor's office; on the participation of the prosecutor's office in lawmaking and international cooperation, etc. The correlation of the course "Prosecutor's supervision" with other legal disciplines. Consideration of this issue allows you to determine the place of the course among other legal disciplines, within the framework of which questions about the prosecutor's office, its system, organization and activities are studied to one degree or another. The course "Prosecutor's

supervision" is primarily associated with disciplines such as "Theory of State and Law", "Constitutional Law of the Russian Federation", "Law Enforcement Agencies", which in their relation to the course under consideration are a methodological basis, since they contain general provisions.

So, "The Theory of State and Law", being the theoretical basis of other legal disciplines, studies the initial key concepts: the concept and essence of the state and law, the concept and content of legality, the system of public authorities, and prosecutor's supervision is considered as one of the types of state activity. "Constitutional law of the Russian Federation" provides for the study of the norms that determine the main provisions of the organization of the prosecutor's office; the procedure for the appointment of the Prosecutor General of the Russian Federation, prosecutors of constituent entities of the Russian Federation and other prosecutors; the place of the prosecutor's office in the system of other state bodies and the relationship between them.

The course "Prosecutor's Supervision" has the most related issues with the discipline "Law Enforcement Agencies," one of which is devoted to the prosecutor's office, its tasks, functions, the system of prosecution authorities, and the organization of its activities. However, the purpose of studying the discipline "Law Enforcement Agencies" is to give only a general idea of the prosecutor's office, without claiming the depth of coverage of issues related to its organization and activities. Of a different nature is the relationship of the course with the so-called specific sectoral legal disciplines: criminal process, civil process, arbitration process. If the course "Prosecutor's Supervision" considers general provisions regarding the main areas of activity of the prosecutor, his powers, then in these disciplines the general powers of the prosecutor are detailed in relation to specific types of proceedings: criminal, civil, arbitration, administrative. (From: **Бобров В.К. Прокурорский надзор**).

*TASK 2. Read the sentences filling the gaps with the words from the list below.*

| |
|---|
| Court proceedings, public, obligatory, participation, municipal interests, statement, procedural legislation, function, court, private appeals, to request, participation |

1) Prosecutors are involved in …. Carrying out the criminal prosecution in court, the Prosecutor acts as a ….Prosecutor.
2) According to the new code of criminal procedure of Russian Federation, the … of the Prosecutor is established in judicial proceedings on public and partially public prosecution.
3) In civil proceedings the Prosecutor is entitled to appeal to court with the … in protection of state and …, as well as an indefinite number of persons; to apply to the protection of the rights of the citizen and his interests protected by law if he is for valid reasons cannot go to …..
4) Powers of attorney, participating in court cases are determined by the ……. The possibility of bringing a claim in the interests of the state, its bodies or individuals closely is related with the ….of general supervision.
5) The Prosecutor or his Deputy within its competence brings to the higher court cassation or …., not a legitimate or an unreasonable decision, verdict, definition or decree of the court.
6) The Prosecutor or his Deputy regardless of ….. in the proceedings has the right within its competence ….. from the court any case or category of cases in which the decision, sentence, ruling or resolution comes into legal force.

*TASK 3. Learn the following words and word combinations with 'Supervision'.*

| | |
|---|---|
| Supervision | • Careful<br>• Close<br>• Strict<br>• Adequate<br>• Effective<br>• Inadequate<br>• Constant<br>• Daily<br>• General<br>• Overall<br>• Need<br>• Require<br>• Be responsible<br>• Improve |

*TASK 4.* ***Interview with a Practicing Prosecutor.*** *Using the word combinations from the previous task make questions. Choose a journalist and an expert. Act out the interview.*

*TASK 5. Read the following text and make up a summary (3–5sentences)*

## THE STRUCTURE OF THE PROSECUTION OF THE RUSSIAN FEDERATION

The Prosecutor General of the Russian Federation in accordance with the legislation of the Russian Federation participates in sessions of the Supreme Court of the Russian Federation, the Supreme Arbitration Court of the Russian Federation.

The Prosecutor General of the Russian Federation have the right to appeal to the constitutional Court of the Russian Federation on the issue of violation of constitutional rights and freedoms of citizens by law, applied or subjected to application in a particular case.

The Prosecutor or his Deputy within its competence bring to a higher court cassation or the private protest, or the protest in order of supervision, and in arbitration court - the appeals or cassation complaint or protest in order of supervision on the illegal or unreasonable decision, verdict, definition or decree of the court. Assistant Prosecutor, Prosecutor of the Department, Prosecutor of the Department may bring a protest just in case, in consideration of which they participated.

The Prosecutor or his Deputy is regardless of participation in the proceedings has the right within its competence to request from the court any case or category of cases in which the decision, sentence, ruling or resolution come into legal force. Seeing that the decision, verdict, definition or the decision of the court are unlawful or unfounded, the Prosecutor brings the protest in order of supervision or drawn with a view to the hierarchically superior Prosecutor.

Protest against the referee's decision in the case of an administrative offense may be brought by a city attorney, district, superior Prosecutor and their deputies. A protest on a decision, verdict, definition or decree of the court prior to its consideration by the court may be withdrawn by the Prosecutor who brought the protest. The bringing by the Prosecutor General of the Russian Federation or his Deputy of the protest against the verdict, in which the punishment is the death penalty, suspends its execution. The Prosecutor General of the Russian Federation is entitled to apply to the Plenum of the Supreme Court of the Russian Federation, Plenum of the Supreme Arbitration Court of the Russian Federation with the idea of giving the courts clarifications on issues of judicial practice in civil, arbitration, criminal, administrative and other cases.

Despite the constant adjustments of the criminal procedure law, the urgent questions of lack or falsity of normative regulation of criminal-procedural activity in criminal prosecution implementation remain and need to be addressed, as outlined in the present work, making appropriate proposals. Sharp, sometimes dramatic factors are such things like the imbalance and the inefficiency of legal

procedural forms of powers of Prosecutor by which is provided the ratio of their various elements and the interaction with other participants of criminal proceedings involved in the process of criminal prosecution in those or other stages of the criminal process. As a result, there are investigative and judicial errors, which are often expressed as illegal criminal prosecution and condemnation of innocent persons, in violation of the principle of inevitability of criminal responsibility of the perpetrators of the crime.

The law on Prosecutor's office, revealing the implementation order by the Prosecutor of the criminal prosecution, does not analyze the content of this procedure, and refers to settle this matter to the criminal procedural law, which in this decade has undergone fundamental changes. (Source: **International Journal of Environmental and Science Education 2016**).

*TASK 6. Answer the following questions below.*

1. Who is entitled to apply to the Court concerning human right and freedoms?
2. What rights do the Prosecutor General and public Prosecutors possess?
3. What are the shortcomings of their work?
4. What issues do Prosecutors address the courts?

*TASK 7. Translate the following text into English in written form.*

## МЕСТО И РОЛЬ ПРОКУРАТУРЫ В СИСТЕМЕ ГОСУДАРСТВЕННЫХ ОРГАНОВ РОССИЙСКОЙ ФЕДЕРАЦИИ. ФУНКЦИИ ПРОКУРАТУРЫ

В соответствии с Конституцией (ст. 2) высшей ценностью в Российском государстве являются человек, его права и свободы, признание и защита которых возлагаются как на само государство, так и на все его органы, учреждения и организации. Права и свободы определяют смысл и содержание законов, а также

их применение на территории РФ. При этом государство берет на себя обязанность контролировать выполнение таких законов. Для этого создается система гарантий, обеспечивающих точное и единообразное их исполнение. Одной из таких гарантий является учреждение в системе государственного механизма специального органа – прокуратуры, которая призвана осуществлять надзор за исполнением законов, соблюдением и защитой прав и свобод граждан, а также охраняемых законом интересов общества и государства.

Современный этап российской прокуратуры ведет отсчет от 17 января 1992 г. с принятия Верховным Советом РФ Закона «О прокуратуре Российской Федерации», который с изменениями действует до сих пор. В настоящее время прокуратура РФ – это независимый государственный правоохранительный орган, обеспечивающий соблюдение законности в стране. Она представляет собой единую федеральную систему органов, осуществляющих от имени Российской Федерации надзор за соблюдением Конституции, исполнением законов, действующих на территории РФ, а также выполняющих иные функции, установленные федеральными законами. В частности, на прокуратуру возложено осуществление уголовного преследования, координация деятельности правоохранительных органов по борьбе с преступностью и другие функции. Вопрос о месте прокуратуры в системе государственных органов РФ является дискуссионным. В Конституции положения, касающиеся прокуратуры (ст. 129), включены в гл. 7 «Судебная власть». На этом основании некоторые ученые полагают, что она относится к органам судебной власти. Однако такая позиция противоречит Конституции, в соответствии с которой судебную власть в России осуществляют только суды (ст. 118). Не принадлежит прокуратура и к законодательной власти, поскольку она Конституцией не наделена законотворческими функциями. Законодательная деятельность в Российской Федерации – прерогатива Федерального Собрания.

Нельзя согласиться еще с одним утверждением, согласно которому прокуратуру следует отнести к исполнительной власти. Во-первых, прокуратура не входит в Правительство РФ ни в качестве самостоятельного структурного подразделения, ни в качестве структурного элемента того или иного министерства, федеральной службы. И во-вторых, если признать, что прокуратура относится к исполнительной власти, надо признать и то, что последняя осуществляет надзор за деятельностью двух других ветвей государственной власти – органами законодательной и судебной власти.

Однако, согласно Конституции РФ, три ветви государственной власти – законодательная, исполнительная и судебная – являются самостоятельными и не могут осуществлять надзор за деятельностью друг друга (ст. 10). Таким образом, прокуратура не входит ни в одну из ветвей государственной власти. Она является самостоятельным, независимым государственным органом, выполняющим в механизме государства особую, свойственную только ей функцию надзора за точным и единообразным исполнением законов в Российской Федерации.

Предназначение, содержание и пределы деятельности прокуратуры раскрываются путем анализа характера и содержания ее деятельности, т. е. функций. Свою деятельность прокуратура реализует не через одну, а через несколько функций. Ибо прокуратура по своему положению в системе государственных правоохранительных органов относится к полифункциональным (*греч.* Poli – много) органам.

Главной, но не единственной, функцией органов прокуратуры, безусловно, является деятельность, связанная с осуществлением надзора за исполнением законов (надзорная функция). Этот вывод вытекает из анализа положений, содержащихся в ряде статей Закона о прокуратуре. (From: **Бобров В.К. Прокурорский надзор).**

*TASK 8. Explain the difference between the following synonyms and antonyms:*

| | |
|---|---|
| 1. Administration<br>2. Guidance<br>3. Instruction<br>4. Oversight<br>5. Surveillance | 1. Intendance<br>2. Conduct<br>3. Auspices<br>4. Direction handling<br>5. Charge<br>6. Neglect |

*TASK 9.* ***Debates.*** *Prepare for and against arguments on the issues below. Divide into "Pro" and "Con" groups and present your arguments advocating your position.*

1. There is a risk of public prosecutors wielding too much power, which can lead to abuses of authority and a lack of accountability within the legal system.
2. A strong public prosecution service promotes public safety and trust in the legal system.
3. Over-reliance on the public prosecution service may result in a lack of focus on rehabilitation and restorative justice. This can lead to an overly punitive approach that doesn't address the root causes of criminal behavior.
4. The historical role of the prosecution service in Russia has been more about state control than ensuring justice.
5. Despite reforms, the Russian prosecution service still lacks full independence from political influence. Critics argue that prosecutors remain highly dependent on the executive branch, limiting their ability to act as a check on government power.

# UNIT 4

*TASK 1. Read the following text:*

## THE HISTORY OF THE PROSECUTOR IN EUROPE AND THE USA

It would be very hard to imagine the criminal process in an ordered state governed by law without any official fulfilling the functions of what is generally called the "prosecutor". Throughout Europe – and the world, bearing in mind that most, or all, functioning criminal process systems in the world have European root – the official may be given different names – prosecutor, "procureur", "staatsanwalt", "officer van justitie" etc. – his or her organizational home might vary – an independent organization, a branch of the police authorities, a department of the judiciary – and the breadth of the duties and the powers invested can differ; in some countries, as in England, part of the duties may even be entrusted to private practitioners on a case-to-case basis. The international community has acknowledged the importance of the function of the official prosecutor in, for example, the 1990 UN Guidelines on the role of prosecutor and in the 2000 Council of Europe Recommendation on the role of public prosecution in the criminal justice system . All international criminal courts from the Nuremberg trials onwards have had prosecutors assigned as independent civil servants.

Ideally, the criminal process system is often seen as a choice between two possible systems, the inquisitorial, with a role for an active judge and the accusatorial, based on the idea of the parts in process as two dueling combatants, equal in arms, before an impartial judge; the former having its modern roots in the judicial reforms following the French revolution, the latter in the English common law system. In reality, of course, there is no such thing as a completely inquisitorial or a completely accusatorial system. As the role and function of the prosecutor gives him or her, so to speak, the key to the criminal process, we have deemed it fruitful to study and to compare the roles and functions of prosecutors in two procedural systems each

on the rather extreme end of the inquisitorial/accusatorial spectrum, i.e., the French, as inquisitorial, and the Swedish, as accusatorial. France and Sweden, like a vast majority of States within the European legal system, over the years, have developed a strong and powerful prosecution system.

There is no one wellspring of American prosecution. Instead, most historical accounts paint American prosecutors as having arisen from three separate European predecessors (Kress, 1976). Like the Dutch *schout*, the prosecutor is an official of local government. Like the French *procureur publique*, the prosecutor has total authority to file criminal charges. And like the English attorney general, the prosecutor has the power to terminate a criminal prosecution at any time. But there also are profound differences between American prosecutors today and those from whom they appear to have descended. For example, neither the *procureur* nor the *schout* was a primary law enforcement official within a specific jurisdiction but instead worked underneath a higher-level centralized official. Also, the discretion enjoyed by American prosecutors is unmatched.

Prosecutors' current authority was not always in place, however. Throughout American history, the prosecutor "evolved" through several stages, from a weak figurehead to a powerful political figure. Jacoby has identified four forces that have contributed to this progression. The first was political; Americans chose a system of public instead of private prosecution. The second was legal; Americans' pursuit of democracy began at local government systems. The third was an outgrowth of the second; prosecutors became elected (as opposed to appointed) officials out of popular sentiment – consistent with democratic ideals. Finally, a desire to separate judicial and executive functions all but guaranteed an executive branch function for prosecutors. (From: **https://www.researchgate.net).**

*TASK 2. Match the following words to their definitions*

| | |
|---|---|
| 1. Inquisitorial | a) a legal system where the court is actively involved in proof taking by investigating the facts of the case. |
| 2. Discretion | b) Freedom or authority to make judgments and to ac as one sees fit. |
| 3. Predecessors | c) Thebranch of government charged with putting into effect a country's laws and the administering of its functions. |
| 4. Executive | d) System where the role of the court is primarily that of an impartial referee between the prosecution and the defense. |
| 5. Judicial | e) One who precedes another in time in holding an office or position. |
| 6. Impartial | f) To move from a higher to a lower place; come or go down. |
| 7. Accusatorial | g) A person оту group engaged in or prepared for a fight, struggle or dispute a proceeding in which opposing parties in a dispute presents evidence before a judge or jury: |
| 8. Combatants | h) not prejudiced towards or against any particular side or party; unbiased |
| 9. Descend | i) of or relating to the administration of justice |
| 10. Trial | |

*TASK 3. Read the sentences filling the gaps with the words from the list below.*

| |
|---|
| Account, executive, terminate, assign, acknowledge, differ, govern, entrust |

In modern government, the _____also formulates and carries out governmental policies,

Directs relations with foreign governments, commands the armed forces, approves or disapproves legislative acts, recommends legislations etc.

Later in the year, she`ll _____ them research papers.

They go to the polls on Friday to choose the people they want to _____ their country.

They are prepared to _____ him with the leadership of the party.

His contract _____ at the end of the season.

Ambition _____ from greed.

He gave an inaccurate account of the plot to kill the president.

The doctors _____ that the treatment had not been successful.

*TASK 4. Learn the following words and word combinations with 'prosecution'. Working in pairs or groups explain the phrases by giving definitions or examples. Have other students guess the terms.*

| | |
|---|---|
| Prosecution | • Criminal prosecution<br>• Private prosecution<br>• Successful prosecution<br>• Impending prosecution<br>• Possible prosecution<br>• Bring prosecution<br>• Initiate prosecution<br>• Be liable to prosecution<br>• Face, risk prosecution<br>• Escape prosecution<br>• Result in prosecution<br>• Prosecution prove<br>• Prosecution allege, claim<br>• Prosecution case, evidence |

*TASK 5. Read the following text and make up a summary (3–5 sentences)*

## THE HISTORY OF THE PROSECUTION IN ENGLAND

Historically in England, with no police forces and no prosecution service, the only route to prosecution was through private prosecutions brought by victims at their own expense or lawyers acting on their behalf. From 1829 onwards, as the police forces were formed, they began to take on the burden of bringing prosecutions against suspected criminals.

Sir John Moule was appointed to be the first Director of Public Prosecution for England and Wales in 1880, operating under the Home Office; his jurisdiction was only for decisions as to whether to prosecute in a very small number of difficult or important cases; once prosecution had been authorised, the matter was turned over to the Treasury Solicitor. Police forces continued to be responsible for the bulk of cases, sometimes referring difficult ones to the Director.

In 1962 a Royal Commission recommended that police forces set up independent prosecution departments so as to avoid having the same officers investigate and prosecute cases, although technically the prosecuting police officers did so as private citizens. The Royal Commission's recommendation was not implemented by all police forces however, and so in 1978, another Royal Commission was set up, this time headed by Sir Cyril Philips. It reported in 1981, recommending that a single unified Crown Prosecution Service with responsibility for all public prosecutions in England and Wales be set up. A White Paper was released in 1983, becoming the Prosecution of Offences Act 1985, which established the CPS under the direction of the Director of Public Prosecutions, consisting of a merger of his old department with the existing police prosecution departments. It started operating in 1986.

In 1997, Sir Iain was commissioned by the government to investigate a potential reform of the CPS. The inquiry reported in June 1998,

finding that 12 % of charges brought by police were discontinued by the CPS, and that there were failures to communicate between the police and CPS. The report recommended that the CPS focus more on serious crimes being prosecuted at the Crown Court level, closer co-operation between CPS lawyers and the police, and to change its organisational structure, concurring with an existing government plan to restructure the organisation into 42 regional branches, each with its own Chief Crown Prosecutor. (Source:**https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2571&context=scholarly_works).**

*TASK 6. Answer the following questions below.*

1. How were the first prosecutions conducted before 1828 in the UK?
2. Who was taken on the burden to bring charges? Why?
3. What was the first Prosecutor subordinated to?
4. Who dealt with prosecutions and cases in the courtrooms?
5. Who was responsible for other cases?
6. When was the first independent prosecution initiated? Why?
7. When was the CPS set up at last?
8. What problems occurred and how were they solved?

*TASK 7. Translate the following text into English in written form.*

## ИСТОРИЯ ПРОКУРАТУРЫ

Одним из первых государственных институтов, осуществлявших функции надзора за исполнением поручений верховного органа государственного управления, можно считать сайонат. В V веке сайоны, являясь посланцами короля, осуществляли надзорные функции по исполнению поручений на территории королевства остготов. Им поручались самые разные дела,

в основном по контролю за местными управителями и чиновниками, без присвоения функций последних.

Впервые прокуратура была создана во Франции в 1302 году именно как орган, представляющий интересы монарха. Прокурор был «глазами» короля, при помощи которых он мог контролировать функционирование всего механизма государства.

В России Прокуратура была учреждена тремя указами Петра Первого 12(23) января 1722 года. Прокурор не пользовался решающим голосом ни по одному административному вопросу – это являлось признаком, отличающим надзор от всех иных видов государственной деятельности.

«Органы управления производят и решают дела, а прокуроры наблюдают за этим производством и решением, охраняют их закономерность, но не принимают другого ближайшего участия в самом существе дела, в их возбуждении, постановлении и направлении».

Таким образом, деятельность прокурора носила надзорный характер. Генерал-прокурор надзирал за тем, чтобы Сенат выполнял все, относящиеся к его компетенции дела, и действовал строго в рамках Регламента и указов императора. (From: **Гартунг Н. История уголовного судопроизводства и судоустройства Франции, Англии, Германии и России).**

*TASK 8. Explain the difference between the following synonyms and antonyms:*

1. Pursuit
2. Accomplishment
3. Achievement
4. Execution
5. Perfomance

1. Pursuance
2. Undertaking
3. Defeat
4. Falure
5. Non prosecution
6. Indemnity

*TASK 9.* ***Presentations.*** *Prepare a public speech on topics below. Make up an abstract of your speech (3-5 sentences) in Russian and point out some keywords (5-10 words).*

1. *The history of Prosecutor's service in Kyrgyzstan.*
2. *The history of Prosecutor's service of Russia.*
3. *The history of Prosecutor's service of China.*
4. *The history of Prosecutor's service of English-speaking countries.*

## UNIT 5

*TASK 1. Read the following text:*

### THE ROLE OF THE PROSECUTOR IN THE USA

The prosecutor is the principal representative of the state in all matters related to the adjudication of criminal offenses. He has a hand in virtually every decision made in the legal course of every case that comes before the criminal courts. The prosecution function is organized differently at the local and federal levels. In all but two states, each county in the state elects a local prosecutor and, in keeping with the notion of equal access to justice for all citizens, pays the prosecutor from public funds. Most chief prosecutors have complete authority and control over the prosecution policies and practices in their jurisdictions, constrained only by the broad outlines of criminal justice statutes, case law, and court procedures that are under the authority of the judiciary (McCoy, 1998).

U.S. Attorneys serve as the nation's principal federal litigators, under the direction of the Attorney General. They are appointed by the President and confirmed by the Senate. One United States Attorney is appointed to serve in each of 93 judicial districts. As the chief federal law enforcement officer of the United States within his or her jurisdiction, the U.S. Attorney has the responsibility to prosecute

criminal cases brought by the federal government; to prosecute and defend civil cases to which the federal government is a party; and to collect debts owed to the federal government that cannot be collected administratively (U.S. Department of Justice, 2001).

The powers of a district attorney (DA) or federal prosecutor arise broadly from statute, case law and procedure, and more specifically from the duties traditional to the prosecutor's office. These activities includereviewing the charges against any person arrested by the police, deciding whether to charge an individual with an offense and determining what that offense should be. The prosecutor has the authority to offer plea bargains – reducing the seriousness of a charge in return for a guilty plea or for other forms of cooperation with the prosecution. He also conducts the trial for the state and makes sentencing recommendations.

The prosecutor may also play a role at the investigative stage in two important ways. He may provide advisory assistance to the police in an investigation to make sure that the evidence required for conviction is present and that investigators have access to certain tools that the prosecutor controls, such as the grand jury or requests to the court for warrants for searches or electronic surveillance. The prosecutor may also assume some responsibility for the lawfulness of investigative activities.

Using these powers, a traditional prosecutor would say that his chief responsibility is to "see that justice is done" by convicting those who have violated the law by conduct that is widely recognized to be very harmful or immoral. Part of this responsibility is to help create safety for citizens by convicting and thereby isolating those who are dangerous, and to make sure that only the guilty are tried and punished. Only slightly less important is the prosecutor's responsibility to ensure that the investigative and trial processes are lawful and fair. This is especially a responsibility for prosecutors in the United States. (From: **The Role of the Prosecutor. National Research Council**).

*TASK 2. Match the following words to the definitions below:*

| | |
|---|---|
| 1. Jurisdiction | a) close observation, especially of a suspected spy or criminal. |
| 2. Warrant | b) to look into or over carefully or thoroughly |
| 3. Search | c) Power or right of a legal or political agency to exercise its authority over a person, subject matter, or territory. |
| 4. Conviction | d) a formal declaration by the verdict of a jury or a judge in a court of law |
| 5. Surveillance | e) blame for, make a claim of wrong-doing or misbehavior against |
| 6. Charge | f) a writ from a court commanding police to perform specified acts |
| 7. Law enforcement officer | g) a defendant`s answer by a factual matter |
| 8. Litigator | h) the power or right to give orders or make decisions |
| 9. Guilty plea | i) a person who studies and settles conflicts |
| 10. Adjudicator | j) a person who responsible for insuring obedience to the law |
| 11. Authority | k) a party to a lawsuit; someone involved in litigation |

*TASK 3. Read the following text filling the gaps with the words from the list below.*

## THE PROSECUTOR

| Charges, criminal litigation, straddle, law enforcement, owes, subordinates |
|---|

The American prosecutor has no equal throughout the world. This is especially true of local district attorneys. They…. a line that separates courts from politics. As Jacoby (1980, p. xv) put it, "the prosecutor is established as the representative of the state in.., but either constitutional or statutory mandate, and yet is directly answerable to the local electorate at the ballot box." District attorneys'….do not directly answer to the voters, but they nonetheless serve at the pleasure of the elected district attorney (DA). Likewise, U.S. attorneys are political appointees with certain loyalties and ideological connections to the president, who is responsible for their status. State attorneys general, while not considered prosecutors in the traditional sense, also are elected officials.

American prosecutors also are somewhat unique in the sense that they perform a number of different functions. The most obvious role is representing the government in court, executing the law, and upholding the federal and state constitutions. On top of that, though, prosecutors have the potential to influence…. activity as a result of their screening function. They can alter both the quality and nature of law enforcement investigations by deciding not to press …. against offenders. Prosecutors, and particularly their interest groups (such as the National District Attorneys Association), also work to change procedures and legislation to work in their favor. The electorate also influences prosecutors, as will be evidenced by this book, such that trials are but one part of the story.

In sum, today's prosecutor looks a great deal different than the prosecutor of old. Population growth and the prominent role of the criminal defense bar (due to the Supreme Court's many

defense decisions) have made prosecution difficult. For the typical urban prosecutor, more work needs to be done in less time. There is most certainly more to the current state of prosecution than population growth and defense attorneys though. What prosecution looks like today …a great deal to important developments early in our nation's history. Foremost among those were democracy and decentralizing, which gave birth to a uniquely American form of prosecution. (From: **The Role of the Prosecutor. National Research Council**).

*TASK 4. Answer the following questions to the texts above.*

1. What is a prosecutor?
2. What is varied from state to state, from county to county?
3. What are limited by common law and statutes?
4. What is US Attorney?
5. How is an American attorney different from a prosecutor?
6. What are the main powers of federal prosecutor?
7. How does the prosecutor influence the inquiry process?
8. What is the main responsibility of a traditional prosecutor?
9. Which officials are appointees? Who are elected?
10. What is the most common role of American persecutor?
11. What has influenced the changes in prosecution?

*TASK 5. Learn the following words and word combinations with 'conviction' and 'charge'. Working in pairs or groups explain the phrases by giving definitions or examples. Have other students guess the term.*

| | |
|---|---|
| Conviction | • Previous conviction<br>• Spent conviction<br>• Unsafe, wrongful conviction<br>• Criminal conviction<br>• Manslaughter, murder conviction<br>• Obtain,secure conviction<br>• Escape conviction<br>• Appeal against conviction<br>• Overturn, quash conviction<br>• Conviction rate |
| Charge | • Formally charged<br>• Jointly charged<br>• Charged in connection with |

*TASK 6. Translate the following text into English using active vocabulary of the texts above.*

## ПРОКУРАТУРА КЫРГЫЗСКОЙ РЕСПУБЛИКИ

Прокуратура Кыргызской Республики является государственным органом, призванным обеспечивать верховенство закона, единство и укрепление законности, а также защиту охраняемых законом интересов личности, общества и государства.

Прокуратура составляет единую систему, на которую возлагается:

1) надзор над точным исполнением законов органами исполнительной власти, а также другими государственными органами, органами местного самоуправления и должностными лицами указанных органов;

2) надзор над соблюдением законов органами, осуществляющими оперативно-розыскную деятельность, следствие;

3) надзор над соблюдением законов при исполнении судебных решений по уголовным делам, а также при применении мер принудительного характера, связанных с ограничением личной свободы граждан;

4) представительство интересов гражданина или государства в суде в случаях, определенных законом;

5) поддержание государственного обвинения в суде;

6) возбуждение уголовных дел в отношении должностных лиц государственных органов с передачей дел на расследование в соответствующие органы, а также уголовное преследование лиц, имеющих статус военнослужащих.

*TASK 7. Read the following text and make up a summary (3–5 sentences).*

## THE CROWN PROSECUTION SERVICE IN ENGLAND

The Crown Prosecution Service (CPS) is the principal public agency for conducting criminal prosecutions in England and Wales. It is headed by the Director of Public Prosecutions (DPP).

The main responsibilities of the CPS are to provide legal advice to the police and other investigative agencies during the course of criminal investigations, to decide whether a suspect should face criminal charges following an investigation, and to conduct prosecutions both in the magistrates` courts and the Crown Court.

The Attorney General for England and Wales superintends the CPS's work and answers for it in Parliament, although the Attorney General has no influence over the conduct of prosecutions, except when national securityis an issue or for a small number of offences that require the Attorney General's permission to prosecute.

## Pre-charge advice

The CPS will often provide confidential advice to investigators on the viability of a prosecution in complex or unusual cases. This includes clarifying the intent needed to commit an offence or addressing shortcomings in the available evidence.

Unlike in many other jurisdictions, the CPS has no power to order investigations or direct investigators to take action. Whether the CPS is asked for advice or a charging decision is entirely at the discretion of investigators (see History for background on this division of responsibilities in England & Wales).

## Charging decisions

Police forces have the authority to charge suspects with less serious offences, such as common assault or criminal damage with a low value. The CPS is responsible for taking all other charging decisions – including for serious offences such as murder and rape – and the police cannot charge suspects with these offences without authorisation from a crown prosecutor (except in emergency situations where police can charge without a prosecutor's authority in certain circumstances).

The Code for Crown Prosecutors requires prosecutors to answer two questions in the "Full Code Test": *Is there sufficient evidence for a realistic prospect of conviction* (in other words, is there sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge). The code outlines this means that an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged. The second question asked is: *Is a prosecution required in the public interest?* These questions must be answered in this order; if there is insufficient evidence, the public interest in prosecuting is irrelevant.

According to the code, if there is insufficient evidence to prosecute, no further action will be taken against the suspect or the prosecu-

tor will ask the police to carry out further inquiries to gather more evidence. When there is sufficient evidence but a prosecution is not required in the public interest, prosecutors can decide that no further action should be taken or that a caution or reprimand is a suitable alternative to prosecution.

In limited circumstances, where the Full Code Test is not met the Threshold Test may be applied to charge a suspect. The seriousness or circumstances of the case must justify the making of an immediate charging decision, and there must be substantial grounds to object to bail. There must be a rigorous examination of the five conditions of the Threshold Test, to ensure that it is only applied when necessary and that cases are not charged prematurely. All five conditions must be met before the Threshold Test can be applied. Where any of the conditions are not met, there is no need to consider any of the other conditions, as the Threshold Test cannot be applied and the suspect cannot be charged. The five conditions that must be met before a Threshold Test can be applied are as follows:

1. There are reasonable grounds to suspect that the person to be charged has committed the offence.
2. Further evidence can be obtained to provide a realistic prospect of conviction
3. The seriousness or the circumstances of the case justifies the making of an immediate charging decision.
4. There are continuing substantial grounds to object to bail in accordance with the Bail Act 1976 and in all the circumstances of the case it is proper to do so.
5. It is in the public interest to charge the suspect.

A decision to charge under the Threshold Test must be kept under review. The prosecutor should be proactive to secure from the police the identified outstanding evidence or other material in accordance with an agreed timetable. The evidence must be regularly assessed to ensure that the charge is still appropriate and that continued objection to bail is justified. The Full Code Test must be applied as

soon as the anticipated further evidence or material is received and, in any event, in Crown Court cases, usually before the formal service of the prosecution case.

### Conducting prosecutions

Whether a decision to charge is taken by police or prosecutors, the CPS will conduct the case, which includes preparing the case for court hearings, disclosing material to the defence and presenting the case in court. The CPS will be represented in court from the first hearing through to conviction/sentencing, and in some cases appeals.

All prosecutions must be kept under continuous review and stopped if the Full Code Test (see above) is no longer satisfied or was never satisfied (i. e. the decision to charge was wrong). Mishandling of a case, such as failing to disclose evidence, can result in the courts either acquitting a defendant or quashing the conviction on appeal.

### Appeals

When an appeal against conviction or sentence is lodged by a defendant, the CPS will decide whether or not to oppose the appeal after considering the grounds of appeal. If it decides to oppose, it will present relevant evidence and material to assist the appellate court.

Exceptionally, the CPS has invited defendants to appeal when it has concluded that the safety of a conviction was questionable, for example in the case of an undercover police officer(by: **Mark Kennedy. The Crown Prosecution Service: History**.)

*TASK 8.* ***Presentations.*** *Prepare a public speech "The prosecution in the USA and the UK". Make up an abstract of your speech (3–5 sentences) in Russian and point out some keywords (5–10 words).*

## UNIT 6

*TASK 1. Read the following text:*

### STRUCTURE AND ORGANIZATION OF THE PROSECUTION IN THE WORLD

In many countries, the chief prosecutor falls under the ministry of justice or the attorney general. In Thailand, however, the Prosecution Department of the Ministry of the Interior became independent from the attorney general in1991. It is now directly under the prime minister. And just because a prosecutor's office falls under the ministry of justice does not mean it always answers to the office above it. In Japan, for example, the prosecutor's office comes under the Criminal Affairs Bureau of the ministry of justice, but prosecution is generally in the hands of the prosecutor-general, who leads the Supreme Public Prosecutor's Office, a Cabinet-level agency. While district attorneys in the United States are elected, prosecutors in many countries are appointed. Throughout Europe and in most Asian countries, prosecutors usually are designated as such by the minister of justice or the president. Of course, the attorney general in the United States is appointed, but prosecutorial appointments are the exception in this country. Interestingly, some countries have started to move away from elections as a means of selecting prosecutors. Some East European countries have abandoned elections in favor of presidential or legislative prosecutorial appointments.

While elected prosecutors in the United States are to serve the constituents who put them there (or, at the least, the "public interest"), prosecutors in European countries most often serve the interests of the state. For example, the crown prosecution system in England and Wales falls under the director of public prosecutions yet operates at the local level with a measure of independence. There are also differences across countries in terms of education and legal qualification requirements for prosecutors. All prosecutors in the United States must be members of the bar in their respective states (or the federal

bar), but Germany, England, and some Scandinavian countries permit prosecution by police or police-educated prosecutors, individuals with less than full legal credentials.

It also is important to note that while U.S. prosecutors have gained considerable power over the years, some countries have drastically restricted prosecutorial power. "This is the case particularly in Russia and other former CIS countries (including the Asian republics) where the Prokuratura played an all powerful role under the Communist system. With its official passage (though bureaucratic vestiges persist) – the adoption of new constitutions, establishment of constitutional courts and major justice reforms – the authority of the Prokuratura has been considerably diminished and efforts are being made to curtail the virtual impunity it enjoyed" (Shikita, 1996, p. 55).

## PROSECUTORIAL FUNCTIONS

The best way to grasp the prosecutorial function between various countries is to compare prosecutorial authority to police authority. In some countries, such as Germany and Korea, prosecutors exercise total control over criminal investigations. In others, such as Japan and the United States, prosecutors enjoy a prominent role in criminal investigation. In fact, district attorneys in the United States often have their own investigators. Still other countries completely separate prosecution from investigation. Examples include England, Indonesia, and Thailand. Police usually are responsible for making arrests, but in some countries prosecutors do so.

Rules of evidence and prosecutors' roles during trial also vary across the world. Prosecutors in the United States can of course subpoena and question witnesses. In other countries, they cannot. In some European systems, for example, written transcripts of testimony can replace oral interrogations. There also are significant differences between countries in terms of prosecutors' say during sentencing proceedings. In most countries, the United States included, prosecutors "advise" judges on sentences. In Japan, however, their recommendations almost always stand. There also are variations in terms of the prosecu-

tor's role in sentence execution. In the United States prosecutors usually wash their hands of sentencing once a recommendation is made to the judge, but that is changing in some areas (as the chapter in this book on Brooklyn's DTAP program attests).

The public prosecutor carries out the functions of evidence gathering. In so doing, he executes such procedures as traveling to the scene, doing visual examination, inspection, seizure, and hearing witness` statements, and seeking the assistance of experts and written evidence and proof, or any other means of evidentiary value. (From: **The Role of the Prosecutor. National Research Council**).

*TASK 2. Match the following words to their definitions below.*

1. Subpoena
2. White-collar crimes
3. Testimony
4. Dismiss
5. Seizure
6. Interrogations
7. Frauds
8. Credentials

a) a writ ordering a person to attend a court

b) wrongful or criminal deception intended to result in financial or personal gain.

c) the action of capturing someone or something using force

d) a formal written or spoken statement, especially one given in a court of law.

e) ask questions of (someone) closely, aggressively, or formally

f) a qualification, achievement, quality, or aspect of a person's background, especially when used to indicate their suitability for something.

g) to financially motivated, nonviolent crime committed by businesses and government professionals

h) order or allow to leave; send away

*TASK 3. Read the following sentences filling the gaps with the words from the list below.*

| Prosecute, surveillance, seizure, wash their hands of, enjoy, strengthen, misdemeanors |
|---|

They should also exercise extraterritorial jurisdiction in order _____ the international protection of children against recruitment.

Industrialized countries cannot simply _____ responsibility by making investments in the developing world.

On the other hand, the Ministry of Justice has proposed drafting a law whereby the jurisdiction of the police for petty _____ would be attributed exclusively to the justices of the peace, in an effort to preserve the principle of monopoly of jurisdiction.

The domestic legislation also provides for interim _____ of assets, carried out by the General Security Directorate through the court process.

It should investigate such crimes and _____ and punish all the perpetrators.

She noted that State _____ practices sometimes distinguished between citizens and non-citizens.

Continued awareness-raising efforts and the combating of negative traditions that prevent women from _____ human rights and freedoms.

*TASK 4. Learn the following words and word combinations with 'evidence'.*

| | |
|---|---|
| Evidence | • Look for, search for evidence<br>• Obtain, gather, produce, come up with evidence<br>• Offer, provide with evidence<br>• Present evidence<br>• Consider, examine, review evidence<br>• Come to light, emerge evidence<br>• Point to, establish, support evidence<br>• Be derived from, be based on evidence<br>• Concerning, regarding, relating to evidence<br>• Convincing, divisive, incontrovertible evidence<br>• Inadequate, insufficient evidence<br>• Concrete, first-hand, objective evidence<br>• Circumstantial evidence |

*TASK 5. Translate the text in written form using words and word combinations from the texts above.*

## ПОЛНОМОЧИЯ И ПРАВА ГЕНЕРАЛЬНОГО ПРОКУРОРА

Генеральный прокурор, обладая всей полнотой полномочий прокуратуры руководит системой прокуратуры и осуществляет контроль её деятельности; ведет переговоры и подписывает международные договоры Кыргызской Республики по вопросам правовой помощи и борьбы с преступностью в установленном порядке законодательством Кыргызской Республики в сфере международных договоров; дает заключение о наличии в действиях Президента Кыргызской Республики признаков преступления в случае выдвижения Жогорку Кенешем Кыргызской Республики обвинения в совершении преступления; Генеральный прокурор подотчетен Президенту и Жогорку Кенешу Кыргызской Республики и представляет ежегодный отчет Жогорку Кенешу Кыргызской Республики.

При выявлении нарушений закона в действиях или бездействии работников органов исполнительной власти, других государственных органов, органов местного самоуправления, а также их должностных лиц, прокурор применяет акты прокурорского реагирования, а также, в случае выявления преступления при осуществлении надзора за исполнением законов, возбуждает уголовное дело вне зависимости от подследственности.

### Полномочия прокурора при осуществлении надзора за исполнением законов

Прокурор, осуществляя надзор за исполнением законов, вправе:

- по предъявлению служебного удостоверения беспрепятственно входить на территории и в помещения, иметь доступ к изданным ими правовым актам, а также к документам и материалам, послужившим основанием к их принятию;
- требовать от руководителей и других должностных лиц представления необходимых документов, материалов, статистических и иных сведений;
- в случае установления факта нарушения закона, прокурор вправе опротестовывать правовые акты, противоречащие нормативным правовым актам;
- обращаться в суд с требованием о признании нормативных правовых актов недействительными или неконституционными; обращаться в суд с заявлением в защиту прав и охраняемых законом интересов граждан, общества и государства;
- возбуждать уголовные дела вне зависимости от подследственности, с передачей их уполномоченному органу расследования; возбуждать производства об административных или дисциплинарных правонарушениях. (From: **Закон Кыргызской Республики о прокуратуре Кыргызской Республики**).

*TASK 6.* ***Presentations.*** *Prepare a public speech "The prosecution in the USA and the UK" or "The prosecution in the RF and Kyrgyzstan". Make up an abstract of your speech (3-5 sentences) in Russian and point out some keywords (5-10words).*

*TASK 7.* ***Round Table.*** *Discuss the following issues. Suggest possible solutions:*

1. **Effectiveness of Prosecution Services:** "How can prosecution services improve their effectiveness in handling complex criminal cases while ensuring fairness and justice for all parties involved?"
2. **Transparency and Accountability:** "What measures can be taken to enhance the transparency and accountability of prosecution services to build public trust and confidence in the legal system?"
3. **Role in Criminal justice System:** "In what ways can prosecution services better collaborate with law enforcement, defense counsels, and the judiciary to create a more cohesive and efficient criminal justice system?"
4. **Balancing Public Safety and Individual rights:** "How can prosecution service strike a balance between ensuring public safety and protecting individual rights, especially in cases involving controversial or high-profile defendants?"
5. **Challenges and Reforms:** "What are the current challenges faced by prosecution services, and what reforms are necessary to address these issues and adapt to the evolving landscape of criminal justice?"

# CHAPTER II

# INTERNATIONAL LAW

## UNIT 1

*TASK 1. Read the following text.*

### ANCIENT WORLDS

For a vivid indication of how persons from even the most diverse cultures can relate to one another in a peaceful, predictable, and mutually beneficial fashion, it is difficult to top Herodotus's description of 'silent trading' between the Carthaginians and an unnamed North African tribe in about the sixth century BC. When the Carthaginians arrived in the tribe's area by ship, they would unload a pile of goods from their vessels, leave them on the beach and then return to their boats and send a smoke signal. The natives would then come and inspect the goods on their own, leave a pile of gold, and retire. Then the Carthaginians would return; and, if satisfied that the gold represented a fair price, they would take it and depart. If not satisfied, they would again retire to their ships; and the natives would return to leave more gold. The process would continue until both sides were content, at which point the Carthaginians would sail away with their gold, without a word exchanged between the two groups. There is perfect honesty on both sides', Herodotus assures us, with no problems of theft or conflict

This silent trading arrangement may have been successful in its way, but a process of interaction so inflexibly ritualistic and so narrow in subject matter could hardly serve for political interactions between States, even in ancient times. Indeed, the vagueness of the term 'international law' leads to various different answers to the question of when international law 'began'. If by 'international law' is meant merely the group of methods or devices which give an element

of predictability to international relations (as in the silent-trading illustration), then the origin may be placed virtually as far back as recorded history itself. If by 'international law' is meant a more or less comprehensive practical code of conduct applying to nations, then the late classical period and Middle Ages was the time of its birth. If 'international law' is taken to mean a set of substantive principles applying *uniquely* to States as such, then the seventeenth century would be the starting time. If 'international law' is defined as the integration of the world at large into something like a single community under a rule of law, then the nineteenth century would be the earliest date (perhaps a little optimistically).

If finally, 'international law' is understood to mean the enactments and judicial decisions of a world government, then its birth lies (if at all) somewhere in the future – and, in all likelihood, the distant future at that. If we take the most restricted of these definitions, then we could expect to find the best evidence for an emerging international law in the three areas of ancient Eurasia that were characterized by dense networks of small, independent States sharing a more or less common religious and cultural value system: Mesopotamia (by, say, the fourth or third millennium BC), northern India (in the Vedic period after about 1600 BC), and classical Greece. Each of these three State systems was characterized by a combination of political fragmentation and cultural unity. This enabled a number of fairly standard practices to emerge, which helped to place inter-State relations on at least a somewhat stable and predictable footing. Three particular areas provide evidence of this development: diplomatic relations, treaty-making, and the conduct of war. A major additional contribution of the Greek city-States was the practice of arbitration of disputes, of which there came to be a very impressive body of practice.

It was not difficult for some of these practices to extend across deeper cultural lines as well. One of the earliest surviving treaty texts is between Egypt and the Hittite Empire, from the thirteenth century BC. The agreement concerned an imperial division of spheres

of influence, but it also dealt with the extradition of fugitives. The problem of good faith and binding force was ensured by enlisting the gods of both nations (two thousand strong in all) to act as guardians.

With the advent of the great universal religions, far more broadly-based systems of world order became possible. One outstanding example was the Islamic empire of the seventh century AD and afterwards. Significantly, the body of law on relations between States within the Muslim world (the *Dar al-Islam*, or 'House of Islam') was much richer than that regarding relations with the outside world (the *Dar al-Harb*, or 'House of war'). But even with infidel States and nationals, a number of pragmatic devices evolved to permit relations to occur in predictable ways – such as 'temporary' treaties or safe-conducts issued to individuals (sometimes on a very large scale).

In Western history, the supreme exemplar of the multinational empire was Rome. But the Roman Empire was, in its formative period, a somewhat tentative and ramshackle affair, without an overarching ethical or religious basis comparable to the Islamic religion in the later Arab empire. That began to change, however, when certain philosophical concepts were imported from Greece (from about the second century BC). The most important of these was the idea of a set of universal principles of justice: the belief that, amidst the welter of varying laws of different States, certain substantive rules of conduct were present in *all* human societies. This idea, first surfaced in the writings of Aristotle). But it was taken much further by the philosophers of the Stoic school, who envisaged the entire world as a single 'world city-State' (or *kosmopolis*) governed by the law of nature. Cicero, writing under Stoic influence, characterized this law of nature as being 'spread through the whole human community, unchanging and eternal'.

This concept of a universal and eternal natural law was later adopted by two other groups, the Roman lawyers and the Christian Church, and then left by them to medieval Europe. The lawyers in particular made a distinction that would have a very long life ahead of it: between a *jus naturale* (or natural law properly speaking) and a *jus*

*gentium* (or law of peoples). The two were distinct, but at the same time so closely interconnected that the differences between them were often very easily ignored. Natural law was the broader concept. It was something like what we would now call a body of scientific laws, applicable not just to human beings but to the whole animal kingdom as well. (Source: **https://www.karlancer.com/api/file/1723124944-da46.pdf).**

*TASK 2. Match the following words to the definitions below.*

| | |
|---|---|
| 1. envisage | a) to confer with another so as |
| 2. to top | b) to arrive at the settlement of some matter |
| 3. infidel | c) one who is not a Christian or who opposes Christianity |
| 4. fugitive | d) a person involved in a criminal case who tries to elude law enforcement especially by fleeing the jurisdiction |
| 5. to emerge | e) become known, able to be known, seen, or declared in advance |
| 6. predictability | f) to be superior to |
| 7. vague | g) to work out the details of (something) in advance |
| 8. mapped out | h) to place within or surround with a trench especially for defense |
| 9. to negotiate | i) smth that is not clearly defined, grasped, or understood |
| 10. to entrench | |

*TASK 3. Read the sentences filling the gaps*

1. The 71-year-old….tycoon bought his daughter a 12-carat blue diamond for 48.6 million Swiss francs ($52.9 million) in 2015, a record at the time (Krystal Chia).
2. These factors overwhelm the model that calculates the probability that a novel variant will….. (Steven Phillips).

3. Before that, the central banks (note there is an important Fed meeting next week) may have to …a financial crisis – every US rate cycle since 1970 ended with a financial/market crisis (Mike O'sullivan).
4. Unlike a last will and testament, an ethical will is not legally… (Lisa J.).

*TASK 4. Learn the following words and word combinations with 'relation'. Working in pairs or groups explain the phrases by giving definitions or examples. Have other students guess the terms.*

| | |
|---|---|
| Relation | • diplomatic, foreign, international, political, power,<br>• public, race, social, class,<br>• labour, trade, economic, industrial,<br>• Anglo-American, East-West<br>• cultivate, develop, establish,<br>• break off, damage, sever, suspend<br>• improve, strengthen<br>• restore, resume<br>• regulate<br>• deteriorate, sour, worsen |

*TASK 5. Answer the following questions.*

1. What does "silent trading" mean? When did it work?
2. Why isn`t it effective in inter-State relations?
3. How many definitions of the term "international law" are there? What are they?
4. How has the development of the term changed over time?
5. What were the reasons to establish interaction between States?
6. What severed as a guarantee of stable and predictable inter-State relations?
7. What outstanding philosophers developed the first concepts of international law?

*TASK 6. Read the following text and make up a summary (3–5 sentences).*

## HISTORICAL OVERVIEW OF INTERNATIONAL LAW

International law reflects the establishment and subsequent modification of a world system founded almost exclusively on the notion that independent sovereign states are the only relevant actors in the international system. The essential structure of international law was mapped out during the European Renaissance, though its origins lay deep in history and can be traced to cooperative agreements between peoples in the ancient Middle East. Among the earliest of these agreements were a treaty between the rulers of Lagash and Umma (in the area of Mesopotamia) in approximately 2100 BCE and an agreement between the Egyptian pharaoh Ramses II and Hattusilis III, the king of the Hittites, concluded in 1258 BCE.

Various Middle Eastern empires subsequently negotiated a number of pacts. The long and rich cultural traditions of ancient Israel, the Indian subcontinent, and China were also vital in the development of international law. In addition, basic notions of governance, of political relations, and of the interaction of independent units provided by ancient Greek political philosophy and the relations between the Greek city-states constituted important sources for the evolution of the international legal system.

Many of the concepts that today underpin the international legal order were established during the Roman Empire. The jus gentium (Latin: "law of nations"), for example, was invented by the Romans to govern the status of foreigners and the relations between foreigners and Roman citizens. In accord with the Greek concept of natural law, which they adopted, the Romans conceived of the jus gentium as having universal application. In the Middle Ages, the concept of natural law, infused with religious principles through the writings of the Jewish philosopher Moses Maimonides (1135–1204) and the theologian St. Thomas Aquinas (1224/25–1274), became the intellec-

tual foundation of the new discipline of the law of nations, regarded as that part of natural law that applied to the relations between sovereign states.

After the collapse of the western Roman Empire in the 5th century CE, Europe suffered from frequent warring for nearly 500 years. Eventually, a group of nation-states emerged, and a number of supranational sets of rules were developed to govern interstate relations, including canon law, the law merchant (which governed trade), and various codes of maritime law,e.g., the 12th-century Rolls of Oléron, named for an island off the west coast of France, and the Laws of Wisby (Visby), the seat of the Hanseatic League until 1361. In the 15th century the arrival of Greek scholars in Europe from the collapsing Byzantine Empire and the introduction of the printing press spurred the development of scientific, humanistic, and individualist thought, while the expansion of ocean navigation by European explorers spread European norms throughout the world and broadened the intellectual and geographic horizons of western Europe.

The subsequent consolidation of European states with increasing wealth and ambitions, coupled with the growth in trade, necessitated the establishment of a set of rules to regulate their relations. In the 16th century the concept of sovereignty provided a basis for the entrenchment of power in the person of the king and was later transformed into a principle of collective sovereignty as the divine right of kings gave way constitutionally to parliamentary or representative forms of government. Sovereignty also acquired an external meaning, referring to independence within a system of competing nation-states. (Source: **https://www.karlancer.com/api/file/1723124944-da46.pdf)**

*TASK 7. Explain the difference between the following synonyms and antonyms:*

1. Affiliation
2. Alliance
3. Association
4. Consanguinity
5. Kinship
6. Liaison
7. Propinquity
8. Antagonism
9. Dissimilarity
10. Disunion
11. Opposition separation

*TASK 8.* ***Debates****. Prepare for and against arguments on the issues below. Divide into pro and con groups and present your argument advocating your position.*

1. The Silk Road was a significant factor in fostering international relations among Asian countries.
2. Diplomatic mission and treaties played a crucial role in the relations of ancient Asian countries.
3. Religious beliefs and institutions had a profound impact on the development of international relations among Asian countries.
4. The expansion of powerful empires, such as the Mongol Empire and the Chinese Dynasties, had a lasting impact on the political landscapes of Asia

## UNIT 2

*TASK 1. Read the following text.*

### MODERN INTERNATIONAL LAW

The foundations of international law (or the law of nations) as it is understood today lie firmly in the development of western culture and political organisation. Treaty of Westphalia provides Public

International Law, the structure and order, for developing it in terms of the present-day society.

Ideas revolving around natural Law formed the basis of philosophies given by the early theorists. Their theories and philosophies depicted the merging idea of Christian themes and Natural Law that occurred in the philosophy of St. Thomas Aquinas.

In the Middle Ages, two sets of international law, namely Lex Mercatoria (Law Merchant) and the Maritime Customary Law were developed to deal with problems that transcended international boundaries. With the revival of trade in the 10th century, merchants started to travel all throughout Europe in order to sell, buy and place orders for various goods. These commercial activities required the establishment of a common legal framework.

The Evolution of Modern International Law was done by a British historical lawyer, Maine. The evolving concepts of separate, sovereign and competing states marked the beginning of what is understood as international law. International law became geographically internationalised through the expansion of the European empires. It became less universal in conception and more, theoretically as well as practically, a reflection of European values.

A Dutch Scholar Hugo Grotius, born in 1583, has been celebrated as the father of International Law. His treatise De Jure Belli ac Pacis has been acknowledged as the most comprehensive and systematic treatise of positivists international law. It is extensive work and includes rather more devotion to the exposition of private law notions than what seems appropriate today.

One central doctrine in Grotius treatise was the acceptance of the law of nature as an independent source of the rule of law of nations apart from customs. His work was continually relied upon as a point of reference and authority in the decisions of courts and textbooks and later writings of standing.

The rise of international law mainly happened during the 19th Century with the rise of powerful states surrounding Europe. With the greater technological advancement and development of new warfare methods, it became necessary to regulate the behavior of these states with the help of a legal framework. The International Committee of the Red Cross was founded in 1863 which helped to promote the series of Geneva Conventions beginning in 1864. These conventions dealt with the 'humanization' of conflict. (…)

The development of international law – both its rules and its institutions – is inevitably shaped by international political events. From the end of World War II until the 1990s, most events that threatened international peace and security were connected to the Cold War between the Soviet Union and its allies and the U.S.-led Western alliance. The UN Security Council was unable to function as intended, because resolutions proposed by one side were likely to be vetoed by the other. The bipolar system of alliances prompted the development of regional organizations – e.g., the Warsaw Pact organized by the Soviet Union and the North Atlantic Treaty Organization (NATO) established by the United States – and encouraged the proliferation of conflicts on the peripheries of the two blocs, including in Korea, Vietnam, and Berlin. Furthermore, the development of norms for protecting human rights proceeded unevenly, slowed by sharp ideological divisions.

The Cold War also gave rise to the coalescence of a group of nonaligned and often newly decolonized states, the so-called "Third World," whose support was eagerly sought by both the United States and the Soviet Union. The developing world's increased prominence focused attention upon the interests of those states, particularly as they related to decolonization, racial discrimination, and economic aid. It also fostered greater universalism in international politics and international law. The ICJ's statute, for example, declared that the organization of the court must reflect the main forms of civilization and the principal legal systems of the world. Similarly, an informal agreement among members of the UN requires that nonpermanent seats

on the Security Council be apportioned to ensure equitable regional representation; 5 of the 10 seats have regularly gone to Africa or Asia, two to Latin America, and the remainder to Europe or other states. Other UN organs are structured in a similar fashion.

The collapse of the Soviet Union and the end of the Cold War in the early 1990s increased political cooperation between the United States and Russia and their allies across the Northern Hemisphere, but tensions also increased between states of the north and those of the south, especially on issues such as trade, human rights, and the law of the sea. Technology and globalization – the rapidly escalating growth in the international movement in goods, services, currency, information, and persons – also became significant forces, spurring international cooperation and somewhat reducing the ideological barriers that divided the world, though globalization also led to increasing trade tensions between allies such as the United States and the European Union (EU).

Since the 1980s, globalization has increased the number and sphere of influence of international and regional organizations and required the expansion of international law to cover the rights and obligations of these actors. Because of its complexity and the sheer number of actors it affects, new international law is now frequently created through processes that require near-universal consensus. In the area of the environment, for example, bilateral negotiations have been supplemented – and in some cases replaced – by multilateral ones, transmuting the process of individual state consent into community acceptance. Various environmental agreements and the Law of the Sea treaty (1982) have been negotiated through this consensus-building process. International law as a system is complex. Although in principle it is "horizontal," in the sense of being founded upon the concept of the equality of states – one of the basic principles of international law – in reality some states continue to be more important than others in creating and maintaining international law. The Hague Conferences of 1899 and 1907 helped in establishing the Permanent Court of Arbitration which dealt with the treatment of prisoners and

the control of warfare. Numerous other conferences, conventions and congresses emphasised the expansion of the rules of international law and the close network of international relations. Due to the above actions the development of the law of war and international bodies that adjudicated international disputes occurred.

The Permanent Court of International Justice was established in 1921 after World War I and was succeeded in 1946 by the International Court of Justice. The United Nations founded the International Court of Justice which has now expanded the scope of International Law to include different aspects of the issues that affect a vast and complex area of international rules such as International Crime, Environment law, Nuclear law etc. (Source: **https://socialsci.libretexts.org/Bookshelves/Political_Science_and_Civics/Human_Security_in_World_Affairs_-_Problems_and_Opportunities_2e_(Lautensach_and_Lautensach)/18%3A_Empowering_International_Human_Security_Regimes/18.2%3A_Modern_International_Law**).

*TASK 2. Match the following words to the definitions below:*

| | | | |
|---|---|---|---|
| 1. | emphasize | a) | rapid increase in the number or amount of something |
| 2. | negotiate | b) | to have formal discussions with someone in order to reach an agreement |
| 3. | tension | c) | a written agreement between two or more countries, formally approved and signed |
| 4. | escalate | d) | to increase in size, number, or importance, or to make something increase in this way |
| 5. | ensure | e) | to show that something is very important or worth giving attention to |
| 6. | expand | f) | to become or make something become greater or more serious |
| 7. | proliferation | g) | a feeling of fear or anger between two groups of people who do not trust each other |

*TASK 3. Complete the following sentences with the words below in correct form.*

| |
|---|
| Emphasize, negotiate, tension, escalate, ensure, expand, proliferation |

1) Dozens of international environmental treaties have been … and ratified.
2) The … of social media platforms has meant people can be constantly in touch in variety of ways.
3) Ultimately, this victory was not … by the persuasive nature of the new dimensions of the bloc's political discourse.

4) He … that all the people taking part in the research were volunteers.
5) Here modernization took place in a relatively smooth manner and there was no need to fear external threats, but domestic … were inevitable.
6) The paradox is that welfare reform reduces the scale of government in one sense but … it in another
7) The decision to … UN involvement has been made in the hopes of a swift end to the hostilities.

*TASK 4. Read the following text and make up a summary (3–5 sentences).*

**NEW CHALLENGES**

Around the 1980s, a certain change of atmosphere in international law became evident, as something like the idealism of the early post-war years began, very cautiously, to return. Here were a number of signs of this. One was a sharp upturn in the judicial business of the World Court. This included a number of cases of high political pro, le, from American policy in Central America to the Tehran hostages crisis to the Yugoslavian conflicts of the 1990s.29 In the 1990s, the ITO project was revived, this time with success, in the form of the creation of the World Trade Organization (WTO), which gave a significant impetus to what soon became widely, if controversially, known as 'globalization'.

Human rights began to assume a higher pro, le, as a result of several factors, such as the global campaign against South African apartheid and the huge increase in activity of non-governmental organizations. The end of the Cold War led to tangible hopes that the original vision of the UN as an effective collective-security agency might, at last, be realized.

The expulsion of Iraq from Kuwait in 1991 lent strong support to this hope. Perhaps most remarkable of all was the rebirth of plans for an international criminal court, after a half-century of dormancy. A statute for a permanent International Criminal Court was drafted in 1998, entering into force in 2002 (with the first trial commencing in 2009).

In this second round of optimism, there was less in the way of euphoria than there had been in the first one, and more of a feeling that international law might be entering an age of new – and dangerous – challenge. International lawyers were now promising, or threatening, to bring international norms to bear upon States in an increasingly intrusive manner.

A striking demonstration of this occurred in 1994, when the UN Security Council authorized the use of force to overthrow an unconstitutional government in Haiti. In 1999, the UN Security Council acquiesced in (although it did not actually authorize) a humanitarian intervention in Kosovo by a coalition of Western powers. It was far from clear how the world would respond to this new-found activism – in particular, whether the world would really be content to entrust its security, in perpetuity, to a Concert-of-Europe style directorate of major powers.

International legal claims were being asserted on a wide range of other fronts as well, and frequently in controversial ways and generally with results that were unwelcome to some. For example, lawyers who pressed for self-determination rights for various minority groups and indigenous peoples were accused of encouraging secession movements. Some human-rights lawyers were loudly demanding changes in the traditional practices of non-Western peoples. And newly found (or newly rejuvenated) concerns over democracy, governance, and corruption posed, potentially, a large threat to governments all over the world.

Some environmental lawyers were insisting that, in the interest of protecting a fragile planet, countries should deliberately curb eco-

nomic growth. (But which countries? And by how much?). Economic globalization also became intensely controversial, as the IMF's policy of 'surveillance' (a somewhat ominous term to some) became increasingly detailed and intrusive, and as 'structural adjustment' was seen to have potentially far-reaching consequences in volatile societies. Fears were also increasingly voiced that the globalization process was bringing an increase in economic inequality.

How well these new challenges will be met remains to be seen. At the beginning of the twenty first century, it is hard to see the UN 'failing' in the way that the League of Nations did and being completely wound up. No one foresees a reversion to the rudimentary ways of Herodotus's silent traders. But it is not impossible to foresee nationalist or populist backlashes within various countries against what is seen to be excessive international activism and against the elitist, technocratic culture of international law and organization. If there is one lesson that the history of international law teaches, it is that the world at large – the 'outside world' if you will – has done far more to mold international law than *vice versa*.

By the beginning of the twenty-first century, international lawyers were changing the world to a greater extent than they ever had before. But it is (or should be) sobering to think that the great forces of history – religious, economic, political, psychological, scientific – have never before been successfully 'managed' or tamed. And only a rash gambler would wager that success was now at hand. Perhaps the most interesting chapters of our history remain to be written. (Source: **https://www.karlancer.com/api/file/1723124944-da46.pdf).**

*TASK 5.* ***Interview with an International Law Expert.*** *Get ready to answer the following questions using information from the whole Unit. Choose a journalist and experts. Act out the interview.*

1. What are the main obstacles to enforcing international law in a globalized world?
2. How does the lack of a centralized global enforcement body affect the effectiveness of international law?
3. Why do some countries refuse to recognize international legal rulings, and what are the consequences?
4. How does the principle of state sovereignty conflict with international legal obligations?
5. How does the increasing role of non-state actors (e.g., corporations, terrorist groups) challenge traditional international law?
6. How effective are international human rights treaties in protecting individuals, given that enforcement relies on states?
7. What challenges does the International Criminal Court (ICC) face in prosecuting war crimes and crimes against humanity?
8. How do cultural and political differences between states hinder the development of universal human rights laws?
9. What are the legal challenges in responding to genocide and ethnic cleansing in conflict zones?
10. How can international law address the global refugee crisis effectively?

## UNIT 3

*TASK 1. Read the following quotes about international law and express your own opinion on the topic.*

1. "The sovereignty of states must be subordinated to international law and international institutions." ~ **George Soros.**
2. "There are both things in international law: the principle of territorial integrity and right to self-determination." ~ **Vladimir Putin.**
3. "International law? I better call my lawyer; he didn't bring that up to me." ~ **George W. Bush.**
4. "No country can allow its safety to be wholly dependent on faithful observance by other states of rules to which they are obliged." ~ **Arthur Balfour.**
5. "I fight because international law recognises my right." ~ **Xanana Gusmao.**
6. "International law says people fighting for self-determination can use force in order to achieve their independence." ~ **Norman Finkelstein.**

*TASK 2. Read the following text.*

### ROLE AND IMPORTANCE OF INTERNATIONAL LAW

Traditionally international law was defined as the law that governs relations between states. Under this definition, only states were actors in international law, Now, however, as a consequence of contemporary evolution, international organizations and, to a much more limited extend, individuals may be recognized with right and duties under it. For instance, the United Nations enjoys the legal capacity to enter into relations with states and other organizations under international law. It also imposes specific duties on individuals.

Individuals may be responsible for international war crimes, crimes against peace, crimes against humanity, piracy. International law is therefore more properly defined as law applicable to international society, the latter comprising states, international organizations and individuals

Before developing the concept of international law, it is worth defining the concept of law itself. The concept of law is connected with the concept of society: there is no society without law, as there is no law without society. All human beings live in groups; in order to protect themselves, they create small or large communities. Inside these communities human develop relations and, at the same time, communities need tools to organize these relations (family, trade transections, leadership, etc.). These relations are the essence of the legal concept. A behavioral instrument intended to organize relations between and among human communities.

In the same fashion, states develop relations between themselves. States, the legal representatives of human community, establish mutual relationships, exchange economic products, make war, conclude friendship or co-operation agreements, send ambassadors to protect their interests in foreign countries, etc. These relations are international because they concern relations between states. The greater part of international law is composed of rules of conduct regulating relations between and among states.

International law a set of rules regulating the international community has existed for about two and a half millennia. Co-operation between sates has always been necessary. Legal instruments, specialized institutions, and enforcement mechanisms have been continuously developed in order to meet the needs and requests of the international community. However, this process has drastically increased these last decades. States are more and more interdependent and, as a consequence, international law has recently seen unprecedented developments. Among the main recent changes in the international system, the following needs to be mentioned.

*Start of multi-polar system* The collapse of the Soviet Union and the emergence of newly independent states have dramatically changed the pace of international relations. The international system is now much more complex, volatile and undisciplined than it used to be at the end of the World War II when two superpowers could decide about the states` global destiny. New problems have appeared challenging the international community at large and requiring urgent solutions: ethnic conflicts, terrorism, drug and weapon trafficking, population explosion, exhaustion of natural resources, global crisis and poverty, etc.

*Economic Exchanges* All states depended, more or less, on the global economic system: some on trade to maintain their existence (like Japan or European countries), others are more self-sufficient (the USA or China), but for all of them sudden interruption of economic exchanges could lead to disaster.

*Technological Progress* New technologies, especially new communications media has pointed out that international cooperation is needed in order to provide the network of international communications as well as the rule of their application to avoid interference, influence or illegal benefit.

In sum, joint action in the field of international relations turned to be more and more necessary. This implies the elaboration and enforcement of a more effective bulk of international rules.

*TASK 3. Match the following words to the definitions below:*

| | |
|---|---|
| 1. Exhaustion | a) the act of accepting or agreeing to something, often unwillingly |
| 2. Urgent | b) likely to change suddenly and unexpectedly, especially by getting worse |
| 3. Interfere | c) very important and needing attention immediately |
| 4. Elaboration | d) the action of using something up or the state of being used up |
| 5. Volatile | e) to involve yourself in a situation when your involvement is not wanted or is not helpful |
| 6. Bulk | f) the addition of more information to or an explanation of something that you have said |
| 7. Acquiescence | g) something or someone that is very large |
| 8. Equity | h) the situation in which everyone is treated fairly according to their needs and no group of people is given special treatment |

*TASK 4. Complete the following sentences with the words below in correct form.*

| |
|---|
| Exhaustion, urgent, interfere, elaboration, volatile, acquiescence, insurgent, rioter, belligerent |

1) …. In other people's relationships is always a mistake.
2) Court rulings have been central to the …. of constitutional rights.

3) At the end of this difficult development, our resources of energy and fiscal support were close to…..
4) She watched ….. setting fire to the vehicles.
5) Cuts in benefit, combined with …. demands to move into compliance, may be more appropriate as an immediate response.
6) The ….. had gained their first objective by winning a major though costly victory.
7) The stock market was highly….. in the early part of the year.
8) His … in the nuclear deal may have been a tactical concession.
9) Many hoped the ….. were finally on the road to peace.

*TASK 5. Read the following text and make up a summary (3–5 sentences).*

## NATURE AND SOURCES OF INTERNATIONAL LAW

The rights and obligations, which a state has under international law are superior to the rights and duties it may have under it own municipal law. For instance, if a state is party to a treaty it cannot escape from its obligation to respect this treaty even if the essence of this treaty is declared unconstitutional under the municipal law of the state. This principle has been confirmed by the Vienna Convention on the Law of Treaties. This what international lawyer mean by the supremacy of law.

However, this theoretical principle does not mean that international law is always applied and respected. There are many examples of violation of international law; conflicts of aggression, genocide, terrorism, etc. The inability of international law to cope with such problems relates to the question of enforcement. International law is based on cooperation. There is no 'supranational' police entitled to compel states to respect their international obligations. Under municipal law a malefactor is assumed to be caught and punished. In international law this is not always the case. The acceptance and application

of international rules by states depend on good will. In this sense, international law may be considered less enforceable than municipal law.

Every legal system must have some legal criteria- sources- by which legal norms are recognized. “Sources” indicates the methods by which rules of law are created and the way in which those rules can be identified.

In domestic law the formal sources of law are:

- The Constitution, if the country has one;
- The legislative instruments; and
- The decisions of judicial tribunals, in the countries where the doctrine of binding precedents prevails.
- In the international sphere, the situation is more complicated; for example:
- There is no institution that is comparable to a national legislature with power to make laws
- No constitution
- There is an International Court of Justice that renders decisions but these decisions are legally binding only on the parties to the dispute, they have little means of enforcement and no precedential value in a formal sense.

If international law doesn`t possess formal institutions responsible for law creation there are recognized and accepted methods whereby legal rules come into existence. In cases of conflict, it` s vital determine which “source” shall prevail. The best view is that:

- An international court, dealing with a dispute between two states would give preference to any specific treaty provision which was binding on the parties over a rule of customary international law;
- In the same way, a rule of customary international law would be given preference over general principles of law.

*TASK 6. Translate the text in written form using words and word combinations from the texts above.*

Международное право является особой системой права, существующей наряду с системой национального права. Особенности международного права заключаются в следующем:

1. Международное право регулирует общественные отношения межгосударственного характера, выходящие за рамки государственных границ и не входящие во внутреннюю компетенцию государства.
2. Нормы международного права создаются самими субъектами международного права на основе свободного волеизъявления равноправных участников международного общения. Обеспечение исполнения международно-правовых норм производится самими субъектами международного права (индивидуально – через институт международно-правовой ответственности, либо коллективно – через Международный Суд ООН, санкции Совета Безопасности ООН, различные комитеты и комиссии).
3. Источники международного права создаются самими субъектами международного права путем свободного согласования воль и существуют в виде международных договоров и международных обычаев.
4. Субъектами международного права являются суверенные государства, нации и народы, борющиеся за свою независимость и самоопределение, международные межправительственные организации, государственно-подобные образования.
5. Ядром системы международного права являются основные *принципы*, представляющие собой основополагающие нормы международного права, нормы jus cogens, носящие универсальный характер и обладающие высшей юридической силой.

Основные принципы:

- запрещения применения силы и угрозы силой;
- мирного разрешения споров; нерушимости государственных границ;
- территориальной целостности государств;
- всеобщего и полного разоружения;
- уважения государственного суверенитета;
- невмешательства во внутренние дела государств;
- добросовестного выполнения международных обязательств;
- суверенного равенства государств;
- сотрудничества;
- равенства и самоопределения народов и наций;
- уважения прав и основных свобод человека;
- защиты окружающей среды;
- ответственности.

Основным элементом системы, «строительным материалом» являются *нормы* международного права, которые представляют собой правила поведения субъектов международного права, устанавливаемые и обеспечиваемые ими самими. (From: Лебединец И.Н. Международное право. Энциклопедия. М., 2003).

*TASK 7. Learn the following words and word combinations. Working in pairs or groups explain the phrases by giving definitions or examples. Have other students guess the terms.*

1. subject of law
2. legal person
3. natural person
4. corporate entity
5. full subject of law
6. partial subject of law
7. object of law
8. state government
9. belligerent
10. rebel
11. liberation movement
12. transnational enterprise
13. multinational corporation
14. a people
15. self-determination
16. nongovernmental organization
17. insurgent
18. rioter
19. non-self-governing territory
20. protectorate

*TASK 8.* ***Presentations.*** *Prepare a public speech on the topic 'Subjects of International Law' using these words. Make up an abstract of your speech (3-5 sentences) in Russian and point out some keywords (5-10words).*

## UNIT 4

*TASK 1. Read the following information.*

### LAW CAREER PATH IN INTERNATIONAL LAW IN THE USA

Whether you've already decided to study an international Law degree or are still wondering if you should pick this discipline, you probably want to discover what career opportunities are available after graduating law school.

First of all, International Law is not just a profession; it's a vocation. But having initial professional experience once you graduate from a Bachelor's of Law (LL.B.) is essential for you to stand out in the search of an International Law degree job. If you also have a Master's degree in International Law, there's little standing in the way of a great career.

International Law degree graduates can find work that is both exciting and highly satisfying. Salaries depend on the nature of the job you choose, which can be short-term, project-based or long-term, but the field is very competitive and getting a job right after graduation may not be an easy task. A post-graduation degree or related additional qualifications can help you develop a successful career in International Law.

Below match the following International Law jobs with their annual salaries in the US and examples of typical tasks and responsibilities.

*Policy Advisor, Corporate Lawyer, Legal Advisor, Ambassador, International Lawyer, Diplomat, Mediator*

1. _____ (179,600 USD/year) drafts trade agreements and international contracts, researches laws and policies in different countries, and takes part in meetings focused on negotiating or mediating deals/conflicts.
2. _____ (107,300 USD/year) offers advice to clients during business transactions or acquisitions, represents clients in court, presents cases and formulates defences; and initiates legal actions on behalf of the client and keeps the updated.
3. _____ (86,200 USD/year) creates and maintains strong and stable international relations, collects and shares information relevant to their clients' interests, negotiates treaties and offers advice and suggestion during crises.
4. _____ (45,500 USD/year) represents an organisation or country during public events, meetings, works with other diplomats and representatives and coordinates their tasks, travels to different countries/locations and represents your

country/organization and does research and gather relevant information in preparation for public speeches.

5. _____ (74,500 USD/year) researches, writes and presents reports for government officials, collaborates with policy analysts to support the implementation of better policies, evaluates potential risks on policy documents.
6. _____ (51,700 USD/year) resolves legal disputes between two or multiple parties, studies individual cases in depth and uses findings to help parties avoid going to trial, and due to the confidential nature of the job, you might have to destroy all documents related to a case after resolving it,
7. _____ (78,700 USD/year) offers advice to clients regarding legal issues, documents, transactions, etc., analyzes and interprets all the legal documents created or received by the client.

*TASK 2. Compare the information from the task 1 with the same in Kyrgyzstan and describe your law career path in international law.*

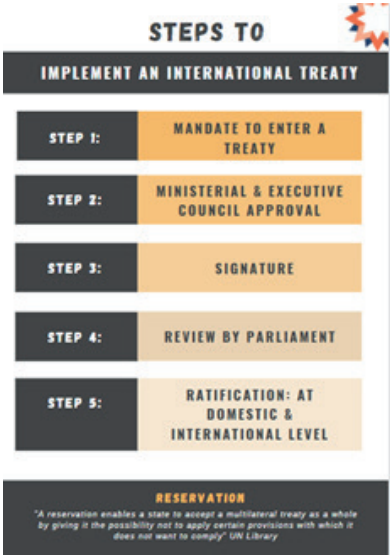
*TASK 3. Read the following text:*

## THE INTERNATIONAL LAW OF TREATIES

The term "treaty" describes international agreements in general, whatever their denomination of the form and circumstances of their conclusion. Any kind of instrument or document ruled by international law and intending to create a legal relationship between two or more states may constitute a treaty. In this field, the terminology is far from being uniform and a variety of instruments may be equally qualified as "treaties": agreement, arrangement, charter, convention, covenant, declaration, final act, pact, protocol, statute, etc. These different titles have no legal meaning whatever their denomination. All treaties are ruled by the same regime.

Generally, only states or international organizations have the authority to conclude treaties. Modern developments in international law have

extended the power to make treaties to other legal entities. Anyway, the state organs entitled to negotiate treaties are determined by each state concerned. Usually, the organ is a part of the state`s executive power. Treaties are generally not concluded by the head of the state or government. This procedure is not frequently used and seemed to be reserved for treaties of special political importance. More frequently, the diplomatic services, sometimes assisted by technical experts are entitled to negotiate on behalf of the state.




### 1. Mandate to Enter a Treaty

Before formal negotiations for a treaty commence, the minister who wishes to create and enter into a treaty must seek permission to negotiate the treaty from the Minister of Foreign Affairs or Cabine.

### 2. Ministerial and Executive Council approval

Once the terms and conditions of a treaty have been finalised, the lead minister seeks agreement from the Minister for Foreign Affairs, the Attorney-General and any other minister whose portfolio may be affected becoming a party to the treaty.

### 3. Signature

At this stage, no legal obligations are imposed but the signing indicates intention to take steps to be bound by the treaty at a later date. Signing a treaty creates an obligation that in the period between signing and ratifying the treaty, the State must refrain from acts that would defeat the object and purpose of the treaty.

### 4. Review by Parliament

State legislative organ then reviews the treaty. A document of the proposed treaty and a national interest analysis is tabled in Parliament for a period of at least 15 sitting days before the Government can take any action. Sometimes public hearings are held. The government does not have to follow the advice of the Committee however the process provides an important means of public and parliamentary scrutiny for the Government's decisions concerning ratification of international treaties.

### 5. Ratification

There are two distinct steps to ratification. Ratification literally means "confirmation." The Treaty must be ratified at a Domestic and International level.

***a. Ratification at a Domestic Level*** **–** This means that if any changes are required to domestic law or procedures and policies are required, legislation will be introduced into the Parliament to implement the treaty in domestic law. Parliament must pass any legislative changes and then the Governor-General must approve the changes.

***b. Ratification at an International Level*** **–** The second step is the international act whereby a State expresses its consent to be bound. This occurs through the deposit of an instrument of ratification which legally binds a state to implement the treaty.

### Conditional Acceptance

A **Reservation** is a declaration made by a state to exclude or alter the legal effect of certain provisions of the treaty in its application to that State. Reservations can be made when the treaty is signed, ratified, accepted, approved or acceded to. Reservations must not be incompatible with the object and the purpose of the treaty. Furthermore, a treaty might prohibit reservations or only allow for certain reservations to be made.

A State will make a reservation where it feels that the implementation of the entire treaty would not be possible under the State's domestic law or would conflict with it.

*TASK 4. Learn the following words and word combinations with 'negotiation' and 'treaty'. Working in pairs or groups explain the phrases by giving definitions or examples. Have other students guess the terms.*

| | |
|---|---|
| • Wage, trade, tough, substantive, subsequent, prolonged, protracted, peace, painstaking, lengthy, intense, bilateral, armistice<br>• To enter into force<br>• To break off<br>• To resume | Negotiation |
| • To ratify\sign<br>• To conclude<br>• To draw up,<br>• To negotiate<br>• To abrogate<br>• To violate<br>• To adhere<br>• To oppose/condemn<br>• A clause of/an article of~<br>• The provisions/terms of~<br>• Disarming, non-proliferation, commercial | A treaty |

*TASK 5. Explain the difference between the following terms, use them in sentences of your own.*

1. agreement,
2. arrangement,
3. charter,
4. convention,
5. covenant
6. declaration,
7. final act,
8. pact,
9. protocol,
10. statute.

*TASK 6. Read the following article and write an abstract in 5–7 sentences.*

## INTERNATIONAL TREATIES HAVE MOSTLY FAILED TO PRODUCE THEIR INTENDED EFFECTS

International treaties have mostly failed to produce their intended effects except for international trade and financial laws and treaties with enforcement mechanisms. These results are unexpected because they challenge conventional wisdom about treaties, which are widely considered as the apex mechanism for countries to make commitments to each other. Not only do our findings question the usefulness of the more than 250,000 existing treaties that have been negotiated to date but they should directly inform how national governments and international institutions facilitate global cooperation on the myriad challenges we face and how future international treaties can be better designed for greater impact.

There are over 250,000 international treaties that aim to foster global cooperation. But are treaties actually helpful for addressing global challenges? This systematic field-wide evidence synthesis of 224 primary studies and meta-analysis of the higher-quality 82 studies finds treaties have mostly failed to produce their intended effects. The only exceptions are treaties governing international trade and finance, which consistently produced intended effects. We also found evidence that impactful treaties achieve their effects through

socialization and normative processes rather than longer-term legal processes and that enforcement mechanisms are the only modifiable treaty design choice with the potential to improve the effectiveness of treaties governing environmental, human rights, humanitarian, maritime, and security policy domains. This evidence synthesis raises doubts about the value of international treaties that neither regulate trade or finance nor contain enforcement mechanisms.

International treaties are often used by countries to address concerns that transcend national boundaries, including the environment, human rights, humanitarian crises, maritime issues, security, and trade. Today there are at least 250,000 treaties yet relatively few have been evaluated for impact . which means we do not know whether these legally binding instruments are effectively serving their intended purpose. And yet, leaders from government, academia, business, and civil society routinely call for new treaties to address global challenges. Few calls for new treaties consider the costs of drafting, signing, ratifying, and enforcing them. Moreover, the indirect opportunity costs associated with the resources and rhetorical space that go into negotiating and implementing treaties may draw attention away from potentially more important initiatives.

Given the central role of treaties in global governance, it is surprising that there has never been a systematic review or field-wide evidence synthesis of whether treaties actually have effects. Individual primary studies have produced divergent results. Which have catalyzed intense debates among researchers and global policymakers on the value of treaties and whether new treaties should be negotiated. There is even debate on how treaties might theoretically produce effects: for example, through immediate socialization processes during intergovernmental negotiations, short-term normative processes at the time of treaties' initial adoption, or longer-term legal processes following treaties' ratification and coming into force. Very few studies have evaluated the impact of different treaty designs across policy domains, leaving today's diplomats and political leaders with just

personal experience, case studies, and intuition on which to design and negotiate new legal arrangements.

Previous evaluations of treaties found effects to be dependent on the negotiating process, intended outcome, policy domain, and treaty design. For example, treaties negotiated through large multilateral organizations composed of over 100 countries like the United Nations (UN) may be less effective than treaties with fewer parties. Likewise, changing people's behavior through treaty making may be more difficult than regulating physical places, government policies, and marketable products. Finally, previous evaluations emphasize the potential value of embedding accountability mechanisms within treaties, including transparency mechanisms for information sharing, oversight mechanisms for monitoring parties, complaint mechanisms for adjudicating grievances, and enforcement mechanisms for sanctioning noncompliance .

For treaties governing environmental, human rights, humanitarian, maritime, and security policy domains, the only modifiable treaty design choice with the potential to improve effectiveness appears to be the inclusion of enforcement mechanisms. The importance of enforcement mechanisms such as prescribing financial sanctions on countries or expelling countries from treaty bodies and trade blocs is supported by research on compliance with international law However, even well-designed accountability mechanisms may not be enough to overcome compliance challenges in some policy domains in contrast, it appears that complaint, oversight, and transparency mechanisms are not associated with greater treaty effectiveness. Yet only 2 of the 32 treaties that were not governing trade and finance made use of enforcement mechanisms, meaning that this accountability mechanism is likely underutilized and that its role in determining treaties' effects should be further investigated. Smaller negotiating forums may also drive intended effects, but it is difficult to statistically disentangle the effects of a forum's size from the influence of its policy domain.

Finally, the point at which treaties were evaluated by researchers was one of the few statistically significant variables used in our meta-analyses. The larger intended effects observed when evaluating treaties at the time of their signing suggests that immediate socialization and short-term normative processes stemming from treaties' negotiation may be more important than the longer-term legal processes stemming from their ratification and coming into legal force. Alternatively, treaty effects might diminish or become less measurable over time, might appear larger when based on short-term technical outputs rather than socially relevant outcomes, or might be driven by early-adopting countries being more willing to comply with international law.

Unless different evidence emerges, calls for new international treaties to address global challenges beyond trade and finance should be received with caution. Although the meta-analysis relies on the current state of published evidence, our findings that treaties governing environmental, human rights, humanitarian, maritime, and security policy domains have not demonstrated impacts either point to the failure of these treaties to achieve impacts or the failure of researchers to generate evidence of impacts. If pursued, enforcement mechanisms appear to be the only treaty design choice that holds promise of maximizing the chances of achieving intended effects. Future treaties beyond trade and finance that do not have enforcement mechanisms are unlikely to be worth their considerable effort and may have unintended consequences. These findings are immediately relevant for treaties that are currently being negotiated or that are being considered for negotiation.

*TASK 7. Answer the following questions.*

1. What is the process of treaty-making and how do states negotiate international treaties?
2. How are treaties ratified and implemented within domestic legal systems?

3. What is the difference between a treaty, a convention, and a protocol?
4. Can you explain the concept of reservation, understandings, and declarations in the context of international treaties?
5. How do treaties address issues of compliance and enforcement among states?
6. What role do international organizations, such as the United Nations, play in facilitating and monitoring international treaties?
7. How do treaties influence state behavior and promote cooperation among states?
8. What mechanism exist for resolving disputes that arise from the integration or application of international treaties?

*TASK 8.* ***Debates.*** *Prepare for and against arguments on the issues below. Divide into "Pros" and "Cons" groups and present your arguments advocating your position.*

1. Treaties often fail due to lack of enforcement mechanisms and state non-compliance.
2. National interests and changing political landscapes justify withdrawal from treaties.
3. International trade agreements promote economic growth and global prosperity.
4. Sanctions can be counterproductive, harming civilians more than governments.
5. International lawyers struggle due to conflicting national laws and sovereignty issues.
6. The International Criminal Court (ICC) is failing due to political interference and selective prosecutions.
7. International lawyers face ethical dilemmas when representing corporations accused of human rights violations.

# UNIT 5

*TASK 1. Read the following text.*

## STATE RESPONSIBILITY IN INTERNATIONAL LAW

All states have certain obligations under international law. The law relating to state responsibility deals with concerns pertaining to the breach of any obligation by a particular state in international law. Obligation is the consequence of responsibility. Each breach by any of the subjects of international law attracts an international responsibility by that particular subject. The Law of State Responsibility deals with the scenarios in which the obligation/ duty may be said to have been breached by the subject, it primary deals with what might account for a breach of an obligation/ duty, the result of the same, and it also lays down how other subjects/ States may react to the breach of obligation.

In international law, with respect to principle, the source of the obligation/ duty breached or not complied with isn't important to determine the consequence it attracts unlike that in national law, e.g. Criminal law, Tort Law, etc. where different rules apply on the basis of the source of obligation that has been breached.

In August 2001 the Commission for International Law finished drafting its Articles on the Responsibilities of States for International Wrongful acts (ARSIWA), a project on which had been ongoing for more than about 40 years. The aim of the articles is to ensure that the generally applicable rules of State responsibility were codified. The ARSIWA laid down general rules that are applicable at all times, that is applicable at all times, even in absence of certain special rules.

There are two kinds of State Responsibility- Direct State Responsibility and Indirect State Responsibility.

1. Direct State Responsibility

It is the state's responsibility for its own actions. It is also known as original responsibility. A state is a legal person and it ensures that its functions are performed through different organs and Agencies, and if any wrong act is done, the state becomes responsible directly on their behalf. The agencies and organs include- Executive Organs, Acts of Judiciary, Acts of Armed forces, etc.

2. Indirect State Responsibility

In this case, the State has vicarious responsibility for the acts. It is also an obligation that the state has to prevent its own subjects and also foreign subjects living in its territory to from committing an act that may cause injury to the other states. If a subject as an individual or as a group causes an injury, then the state as a whole has to take responsibility for the same. In fact, the State becomes vicariously liable. The responsibility of State arises only when one of the organs of the State fails to or does not comply or carry out its functions carefully and in the manner it is supposed to.

There are two elements of State Responsibility. They are:

1. Act or omission must constitute a breach of an international obligation.
2. Act or omission must be "attributable" to the State.

In principle, generally, the State is not responsible for the acts or omission of the individuals. Though the State is abstract, and cannot do anything on its own, but can only have the functions performed by its organs and/ or its agencies, which are run by individuals, then in such cases the State is not responsible for the acts of the individuals that are committed by the individuals in their personal capacity. It is important to note, that State Responsibility is under a duty to make reparation for the injury sustained, a duty incumbent upon the state which violated or did not comply with an international obligation.

The first case of attribution is that of the Organs of the State. Their duties are attributed even in case of them exceeding their authority in the matter of national law. No distinction on the level of a particular organ in the hierarchy of the State is made as such, and the same has also not been made for the separation of powers. The State's responsibility can arise from the acts of junior officials to Ministers, or by their fault in carrying out their responsibilities. Secondly, rules of attribution cover situations in which individuals, not otherwise State organs, are exercising "elements of governmental authority" at the time that they act. The acts of private individuals are attributes of State if those individuals are acting in accordance with the instructions of the State.

*TASK 2. Read the following sentences filling the gaps with the words from the box below in correct form:*

| Omission, capacity, ensures, incumbent, consequence, vicarious, comply, cause, injury, breach |
|---|

1. Such …… usually happen for pragmatic rather than theoretical reasons.
2. Here are serious penalties for failure to …….. with the regulations.
3. The role of the police is to …….. (that) the law is obeyed.
4. A good leader must have the…….. to make decisions.
5. What kind of ……performance could this possibly inspire?
6. Not making a will can have serious…… for your children and other family members.
7. The difficult driving conditions ….. several accidents.
8. Adverse work and environmental conditions predict occupational ……..
9. The…… president faces problems which began many years before he took office.
10. We know when a peace agreement has been signed or ……...

*TASK 3. Read the following text and make up a summary (3–5 sentences).*

## CONTENT OF INTERNATIONAL RESPONSIBILITY

On the commission of an internationally wrongful act, a set of new legal obligations came into existence, which were imposed on the state that committed the international wrong. The legal obligations are as follows:

1. The state is responsible for the complete reparation of the damage done for the injury caused by the State.
2. In cases where the wrongful act is continuing, the wrongdoer State has the duty to bring an end to the commission of the continuing act.

The reparation of the damage can be in the form of restitution or compensation or both. In case the act is continuing the State must issue a guarantee that the same would be concluded.

Initially, only the State that was directly injured was in a position to demand reparation, but with the changing international scenario, the same has been changed. In the case of International Court of Justice in the Barcelona Traction, Light and Power Company Limited (Belgium v. Spain) the court held that a distinction must be made in State's duty towards the international community at large and its responsibility towards other states. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations *erga omnes*. The court also went on to say, "such obligations derive, for example, in contemporary international law, from the outlawing of acts of aggression, and of genocide, as also from the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination."

The State Responsibility now, not only focuses on the affected state but also looks very closely on the community interest at large.

## RELATIONSHIP BETWEEN STATE RESPONSIBILITY AND INDIVIDUAL RESPONSIBILITY

The relationship between State Responsibility and Individual Responsibility which has been a neglected area for the longest time, is now being talked about due to the development of international individual criminal responsibility.

In the case Croatia v. Yugoslavia the court held "The reference in Article IX to "the responsibility of a State for genocide or for any of the other acts enumerated in Article III," does not exclude any form of State responsibility. Nor is the responsibility of a State for acts of its organs excluded by Article IV of the Convention, which contemplates the commission of an act of genocide by 'rulers' or 'public officials'. As a result of this, the Article 15 of ARSIWA provides as follows:

1. The breach of an international obligation by a State, through a series of actions or omissions defined in aggregate as wrongful, occurs when the action or omission occurs which, taken with the other actions or omissions, is sufficient to constitute the wrongful act.
2. In such a case, the breach extends over the entire period starting with the first of the actions or omissions of the series and lasts for as long as these actions or omissions are repeated and remain not in conformity with the international obligation.

Therefore, the International Court of Justice has established special guidelines with respect to genocide to ensure the safeguarding of the international community's interest as a whole.

In international law, it is the State's responsibility which commits a wrongful act against another state to ensure reparation of the damage done, either by restitution or compensation, or both. Any wrongful act committed by an organ or an agency of the State leads to breach of an obligation which leads to the State's responsibility regarding the same. The scope of the same has broadened, as the International Court of Justice gives priority to the interest of the community at large now more than ever. (Authored by **Harshitha Ulphas**).

*TASK 4. Learn the following terms with 'state', 'responsibility'. Use them in sentences of your own.*

| | |
|---|---|
| • direct \ indirect<br>• collective/ joint/ shared<br>• financial/legal/<br>• to accept/assume<br>• to admit/claim<br>• to delegate/hand over | Responsibility |
| State | • control<br>• sector<br>• aid<br>• funding<br>• affairs<br>• intervention<br>• property |

*TASK 5.* ***Interview with International Law Experts.*** *Get ready to answer the following questions. Choose a journalist and experts. Act out the interview.*

1. What are the primary sources of international law that define state responsibilities?
2. How does the principal of state sovereignty impact the enforcement of international law?
3. Can you explain the concept of state responsibility for wrongful acts?
4. What are the consequences for a state that breaches its international obligations?

5. How does international law address the issue of reparations and compensation for violations by states?
6. What role does the international Court of Justice play in resolving disputes related to state responsibilities?
7. How do treaties and conventions influence state behavior and responsibilities?
8. What mechanisms exist for holding states accountable for human rights violations under international law?
9. How do non-state actors, such as international organizations, influence state responsibilities in international law?
10. Can you discuss any notable case studies where states were held accountable for their actions under international law?

*TASK 6. Translate the text in written form using words and word combinations from the texts above.*

## ПОНЯТИЕ И ПРИНЦИПЫ ОТВЕТСТВЕННОСТИ В МЕЖДУНАРОДНОМ ПРАВЕ

В настоящее время в международном праве определен достаточно широкий крут транснациональных преступлений, то есть деяний, в той или иной степени посягающих на международный правопорядок. За совершением преступлений должны следовать ответственность, наказание. Однако в этих вопросах в международном праве еще много неопределенного и спорного.

Прежде всего необходимо отметить, что в рамках ООН отсутствует какой-либо постоянный надгосударственный аппарат, имеющий полномочия принуждать государства или иных субъектов международного права преодолевать определенные неблагоприятные последствия, связанные с совершением деяний, признанных мировым сообществом как преступления. Вместе с тем это не означает, что государства-нарушители остаются безнаказанными.

Нормы, регулирующие ответственность за деяния, признанные мировым сообществом в качестве правонарушений, составляют в совокупности особый международно-правовой институт, который в истории международного права претерпел значительные изменения. Так, современное международное право содержит положения, которых раньше не было – о международной ответственности государств за агрессию, преступления против человечности, международный терроризм, апартеид, экоцид и др., изменились также формы реализации ответственности.

Таким образом, ответственность в международном праве можно определить как международно-правовой институт, включающий совокупность правовых норм, которые регулируют международные отношения в случае совершения государством или иным субъектом международного права деяний, относящихся к разряду транснациональных и признанных таковыми в международных соглашениях. Международно-правовая ответственность означает обязанность государства (здесь и далее, если нет оговорок, под субъектом транснационального преступления подразумевается государство, поскольку вокруг именно этого субъекта ведутся основные дискуссии) не только ликвидировать вред, причиненный нарушением, но и право потерпевшей стороны на удовлетворение своих нарушенных интересов (восстановление границы, требование публичного извинения и т. д.).

Соответственно в международном праве принято различать два вида ответственности: *материальную* и *нематериальную*. Международная практика выработала следующие основные формы ответственности:

- реституция (возвращение захваченных ценностей, восстановление разрушенных объектов);
- репарация (возмещение стоимости причиненного ущерба);
- сатисфакция (принесение извинений, наказание виновных);
- экономические санкции;
- применение коллективных вооруженных сил.

В международных отношениях особо выделяется политическая ответственность (как разновидность нематериальной ответственности), которая означает предоставление государством-нарушителем удовлетворения потерпевшей стороне в той или иной форме, что, в свою очередь, зависит от характера и степени тяжести правонарушения. Например, в случае агрессии политическая ответственность может предусматривать временное ограничение суверенитета государства-агрессора, оккупации его территории, признание преступными его политических партий, правительства, ведомств (Authored by: **Raskazov L.P**. **https://www.mjil.ru/jour/article/download/1568/1471**).

*TASK 7. Read the text and speculate on challenges faced by states regarding migrants and refugees.*

## TREATMENT OF ALIENS IN INTERNATIONAL LAW

Aliens, or foreign nationals, are individuals who reside in a country without holding its nationality (immigrants, tourists, business travelers, migrants, refugees, asylum seekers, etc.) Their treatment in international law is governed by various legal principles, treaties, and customary practices that ensure the protection of their rights while allowing states to regulate their presence. The subject is significant due to increasing globalization, migration, and concerns over national security and human rights.

### Principles Governing the Treatment of Aliens

1. Sovereignty and National Jurisdiction. Each state has the sovereign right to regulate the entry, stay, and expulsion of aliens within its territory. However, this power is subject to international obligations, including respect for fundamental human rights and the principles of non-discrimination.

2. National Treatment vs. Minimum Standard of Treatment.

There are two principal approaches to the treatment of aliens:

- National Treatment: Aliens are granted the same rights and obligations as nationals of the host country. This approach is commonly adopted in trade agreements and economic treaties.
- Minimum Standard of Treatment: Regardless of national laws, international law establishes a minimum level of protection that states must accord to aliens. This includes protection from arbitrary detention, denial of justice, and inhumane treatment.

Aliens exercise certain Rights and Protections under international law:

1. Protection Against Arbitrary Expulsion
2. Right to Due Process and Fair Trial
3. Protection from Discrimination

Moreover, aliens are protected under international humanitarian law (IHL) during armed conflicts. The Geneva Conventions ensure the humane treatment of foreign nationals, including prisoners of war and civilian populations.

While aliens enjoy certain rights, they also have responsibilities under the law of the host state. These include compliance with local laws, payment of taxes, and respect for national security regulations.

## Challenges and Contemporary Issues

Nowadays, the world faces numerous challenges, including political conflicts, economic instability, climate change, and public health emergencies. These factors have driven large numbers of migrants and refugees to seek asylum in European countries.

Increasing labor migration has raised debates over fair labor standards and the treatment of migrant workers. Migrants can generally be classified into two categories based on their legal status in a host country:

- regular migrants are individuals who enter, stay, and work in a foreign country through legal means, complying with the immigration laws and regulations of the host state. They typically hold valid visas, residence permits, or work authorizations and benefit from legal protections and rights provided under national and international law;
- irregular migrants, also known as undocumented or unauthorized migrants, are individuals who enter or stay in a country without proper authorization or by violating the conditions of their visa. This may include those who cross borders without documentation, overstay their visas, or work without legal permission. Although they may still be entitled to fundamental human rights protections, they often face risks such as exploitation, discrimination, and deportation.

As for asylum seekers, they are individuals who flee their home country due to persecution, conflict, or human rights violations and apply for international protection in another country. Their legal status is pending until their application for refugee status is reviewed and approved by the host state or an international body such as the United Nations High Commissioner for Refugees (UNHCR). During this period, they may have limited rights and access to social services depending on the host country's laws.

While refugees are individuals who have been formally recognized as needing international protection under the 1951 Refugee Convention or other legal frameworks. They cannot return to their home country due to a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion. Recognized refugees are granted specific legal protections, including the right to non-refoulement (protection from forced return to their country of origin), access to basic services, and sometimes a pathway to permanent residency or citizenship. But in spite of the Convention, many states face challenges in balancing security concerns with humanitarian obligations.

The treatment of aliens in international law reflects a balance between state sovereignty and human rights. While states have the authority to regulate the presence of foreign nationals, they must uphold international legal standards to ensure fair and humane treatment. The evolution of international norms continues to shape the rights and responsibilities of aliens worldwide.

*TASK 8.* ***Round Table.*** *Discuss the following issues. Suggest possible solutions:*

1. **Legal and Human Rights Framework:** Should aliens be granted the same legal rights as citizens in host countries? Why or why not?
2. **State Sovereignty vs. Human Rights:** How can governments balance national security concerns with the obligation to protect aliens' rights? Should there be international oversight to ensure that states comply with their obligations toward aliens?
3. **Challenges and Contemporary Issues:** How do current global migration trends impact the treatment of aliens in different regions? What are the main challenges states face when dealing with irregular migrants and asylum seekers?
4. **Ethical and Social Considerations:** Should aliens have access to public services such as healthcare and education in host countries? What measures can be taken to ensure the successful integration of aliens into society?

# CHAPTER III

# CIVIL LAW

## UNIT 1

*TASK 1. Read the following text:*

### HISTORY OF THE DEVELOPMENT OF CIVIL LAW

The emergence and development of civil law as an independent branch of law is associated with the development of commodity-money relations. Such relations were first widely developed in Ancient Rome, where civil law was formed on the basis of customary law and judicial practice of magistrates who resolved property disputes, and later on the basis of legal provisions formulated by Roman lawyers. At that time, civil law was a branched system of legal institutions that regulated commodity relations (purchase and sale, property lease, contract, loan, etc.). Roman law was the most developed form of law in ancient times and it was in it that the main provisions of modern civil law were first formulated. With the fall of the Roman Empire and the accession of barbarian tribes to its territory, the application of Roman law ceased.

In the Middle Ages, in a feudal society based on a subsistence economy, civil law had a narrow scope and represented trade customs and local (local) legal norms of newly developing and emerging cities.

The revival of commodity production in the Renaissance led to an increase in interest in the institutions of Roman civil law, as the most perfect civil law for that period, which led to their introduction (mainly by commenting on glossators by schools) into civil circulation and further subsidiary (additional) application to customs and official rules of law (pandect law). The revival of Roman norms has been called the recession of Roman private law.

After the bourgeois revolutions of the 17th and 18th centuries, the norms of Roman civil law were incorporated either in full or in a revised form, taking into account modern conditions of circulation, into the civil codes of France (1804 - the Napoleonic Civil Code), Austria (1811), Germany (1896 - the German Civil Code) and others countries in the process of codifying civil law.

The main principles laid down at that time in the basis of the codified acts of the Civil Code were the principles of non-intervention of the state in the economy, freedom of disposal of private property and contractual terms, formal equality of partners in civil legal relations.

In the process of development of civil law after the Middle Ages, personal non-property relations fall into the sphere of interests and regulation of civil law, although not directly related to the protection of material interests, but ultimately determined by them (protection of business reputation and honor, inviolability of a company name, authorship, etc.). Later, such relations organically became part of civil law, since the methods of their regulation turned out to be extremely similar to those that regulated civil circulation (equality of participants in relations, optionality, inadmissibility of anyone interfering in private affairs, material compensation for damage caused, including moral).

The first incorporation of the norms of civil law in Russia was carried out by M. M. Speransky in the first half of the 19th century. (Code of Laws of the Russian Empire).

By the end of the 19th century the obsolescence of the provisions of the Code of Laws in terms of civil law became so obvious that the development of a new law, the Civil Code, began. The first part of it was completed in 1913, but was never put into operation due to the outbreak of the First World War.

After the abolition in 1917 of all the laws of the Russian Empire, the land, factories and other basic means of production and transport,

and the housing stock were nationalized.At the end of the civil war and in connection with the transition to the NEP policy, the first Soviet Civil Code of 1922 was adopted to regulate commodity-money relations.

With the curtailment of the NEP in 1926–28 and in connection with the development of the command economy, the scope of civil law was significantly narrowed, and loading became of great importance.

The next codification of civil law was completed with the adoption of the Fundamentals of Civil Legislation of the USSR and the Union Republics in 1961. The provisions of the Fundamentals were subsequently supplemented and specified to a small extent by the Civil Codes of the Union Republics.

The first part of the new Civil Code of the Russian Federation, currently in force, was adopted only in 1994.

*TASK 2. Answer the following questions to the text.*

1. What was the first impulse for the development of civil law?
2. What are commodity relations?
3. What are the sources of Roman law?
4. Why did the most developed ancient law vanish?
5. What regulated relationships in the Middle Ages?
6. What increased the interest to the Roman civil law in the Renaissance?
7. What were the main principles of Civil Code in the 17th and 18th centuries?
8. When did non-property relations start to be protected? What types of non-property relations were there?
9. Why wasn`t the Civil Code of the Russian empire exercised after the Revolution?

10. Why was the first Soviet Civil Code of 1922 adopted?
11. What is the history of the modern Russian Civil Code?
12. What is the history of the civil code in Kyrgyzstan?

*TASK 3. Match the subject areas in the box to the branches of law below.*

1. Agriculture
2. Civil rights
3. Divorce
4. Environmental law
5. Unfair competition
6. Foreign relations law
7. Joint ventures
8. Landlord-Tenant
9. Pensions
10. Product liability
11. Property tax

a) Constitutional law, Individual rights
b) Employment law
c) Enterprise law
d) Intellectual property
e) Family law
f) International, Transnational, Comparative law
g) Law relating to commercial transaction
h) Law relating to particular activities/Business sectors
i) Property, Natural resources, the Environment
j) Taxatio

*TASK 4. Study the civil procedure in Great Britain and make a process infographic.*

## CIVIL PROCEDURE

All cases concerning goods, property, debt repayment, breach of contract (with some exceptions such as insolvency proceedings and non-contentious litigation) are subjects to Civil Procedure Rules.

The judge performs the role of case manager. The court sets a timetable for litigation, with the parties being under an obligation to the court to adhere to timescales which control the progress of the case. Procedure rules are supplemented by detailed instruction made by the judge which support the rules, known practice direction.

Most claims are initiated by the use of a claim form, which functions as a summon.

The claim form can be used for different types of claims, for example for specified and unspecified monetary sums, or for the claimant to ask the court to make an order. Once the claim has been issued, a copy is served on, that is, delivered to the defendant with the response pack inviting them to either admit the claim, using the form of admission, or defend it, using the form of defense. The response pack also contains an acknowledgement of service form to confirm the receipt of the claim, and a counterclaim form for the defendant to use if they wish to claim against the defendant. A defendant must respond within 14 days of service of the particulars of the claim. If the defendant does not respond, judgement can be given in favor of the claimant. The defendant may be able to get a time extension for filing a reply on defence by using the part of the acknowledgement or service form which states an intention to defend the claim.

Cases are allocated to a regime or track by a procedural judge according to their monetary value (from small claims track, fast track to a multi-track regime. Fast track direction might include disclosure where the claimant tells the defence of any relevant documents in their

possession. This is followed by inspection, initiated by a written request by the claimant to look at relevant documents held by the defence, and an exchange of witness statements. The multi-track regime is intended to be flexible and does not have a standard procedure. In all regimes, parties are encouraged to settle their differences and for this purpose a stay in proceeding may be agreed. Case management conferences are often conducted by telephone and give parties the opportunity to review the process and make decisions. If a defendant is ordered to pat by a judge and fails to do so, the claimant can enforce the judgement in court.

*TASK 5. Match the following words and word combinations to the definitions below.*

1. Claim form
2. Disclosure
3. Counterclaim
4. Inspection
5. Practice direction
6. Witness statement
7. Form of defence

a) The process by which a claimant may look at written evidence held by the defence
b) The document in which the defendant makes a claim against the claimant
c) The document in which the defendant agrees to the claim made by the claimant
d) The document starting a claim proceedings
e) The process by which the claimant is required to inform the defendant of the documents they hold relevant to the claim
f) The document giving evidence by someone who saw or heard something
g) The instructions given by a judge on how procedures should be carried out

*TASK 6. Make word combinations taking words from two columns, then use the appropriate word combinations to answer the questions. Consult the text if necessary.*

| | |
|---|---|
| 1. admit | h) a timetable |
| 2. agree to | i) a stay |
| 3. allocate to | j) a claim |
| 4. file | k) the process |
| 5. enforce | l) the judgement |
| 6. issue | m) a claim |
| 7. review | n) a claim on |
| 8. set | o) a regime |
| 9. settle | p) a reply |
| 10. serve | q) differences |

1. How does a claim proceeding start?
2. What must a defendant do when he or she has been served with a claim?
3. If both parties want to try to settle the dispute out of court what should they ask the court to do?
4. What is the case management conference?
5. If a defendant is ordered to pay a claimant`s costs but does not, what actions can the claimant take?

*TASK 7. Study the information on "**Civil procedure in Kyrgyzstan**" in online resources. Describe the process of a civil claim in your legal system as if to a client from a different system who wants to initiate a claim.*

# UNIT 2

## TORT LAW

*TASK 1. Read the following texts, complete with the phrases below. (On an economic theory of tort law read Supplemented reading text 3)*

***Torts and personal liability, Insurance, Workers` compensation, Product liability, Damages***

1. _____ are the sum of money the law imposes for a breach of some duty or violation of some right. Generally, there are two types: compensatory and punitive. The former are intended to compensate the injured party for his loss or injury; the latter are awarded to punish a wrongdoer.
2. In the absence of _____, three possible individuals bear the burden of an economic loss: the individual suffering the loss; the individual causing the loss via negligence or unlawful conduct; a particular party who has been allocated the burden by the legislature.
3. _____ refers to liability of any or all parties along the chain of manufacture of any product for damage caused by that product. This includes the manufacturer of component parts, an assembling manufacturer, the wholesaler, and the retail store owner. Products containing inherent defects that cause harm to a consumer of the product, or someone to whom that product was loaned or given, are the subjects to suits.
4. _____ are civil wrongs recognized by law as grounds for a lawsuit. These wrongs result in an injury or harm that constitutes the basis for a claim by injured party. The injured party may sue for an injunction to prevent the continuation of the tortious conduct or monetary damages. Among the types of damages, the injured party may recover: are loss of earning capacity, pain and suffering, and reasonable medical expenses.

5. _____are designed to ensure that employees who are injured or disabled on the job are provided with fixed monetary awards, eliminating the need for litigation. These laws also provide benefits for dependents of those workers who are killed because of work-related accidents or illnesses.

*TASK 2. Answer the questions.*

1. What are the two types of damages? What is the difference between them?
2. When there is no insurance, who may have to bear the loss?
3. What are the parties along the chain of manufacture?
4. What remedies are open to the injured party in a tort case?
5. Who benefits from Workers` Compensation laws?

*TASK 3.* Read the text.

**Tort 1: Personal injury claim**

A tort is a civil, not criminal, wrong, which excludes breach of contract. A tort entitles a person injured by damage or loss resulting from the tort to claim damages in compensation. Tort law has been built upon decisions made in reported court cases. Torts include, for example:

- negligence – the breach of a duty of care which is owed to a claimant, who in consequence suffers injury or (a) loss;
- trespass – direct and forcible injury, for example if person A walks over B's land without lawful justification or A removes B's goods without permission;
- defamation – publishing a statement about someone which lowers the person in the opinion of others. This is known as libel when in a permanent form, and slander if it is in speech;

- nuisance – for example if A acts in a way which prevents B from the use and enjoyment of his land.

In the case of product defects causing damage or harm to consumers, strict liability, that is, legal responsibility for damage independent of negligence, is imposed on producers and suppliers by the Consumer Protection Act, which puts into effect a European Union Product Liability Directive.

**Client briefing notes – personal injury claims**

One of the clients of a large regional law firm is 'Get Fit', a chain of fitness centres. Below is an extract from draft briefing notes prepared by the law firm, intended to inform the managers of 'Get Fit' of the potential cost in the event of a successful personal injury claim in negligence following an accident at one of their centres.

A person who has sustained an injury at the centre and who believes that they may have a claim against the company ('Get Fit) will usually seek advice to assess whether the likely level of damages, i.e. the financial compensation that may be awarded, is sufficient to justify the risk of pursuing a claim.

The number of damages, known as the quantum, is usually made up of two aspects.

- General Damages are paid to compensate the claimant, that is, the person making the claim, for the pain and suffering resulting from the injury and for the effect this has on their life. These damages are difficult to assess and guidelines are published by the Judicial Studies Board. You may hear these being referred to as the JSB guidelines. Reference is also made to the level of damages awarded by courts in similar cases.
- Special Damages are calculated more objectively as these consist of claims for the past and future financial loss to the claimant. This typically includes loss of earnings, in addition

to the cost of care and necessary equipment required as a result of the injury.

In some cases, when liability is admitted, it may be appropriate to make interim payments on account of the full award. For instance, the claimant may be undergoing a course of medical treatment. This will fall into the special damages category and payment can therefore be made before the final claim is settled.

*TASK 4. Match the following words to the definitions below:*

| | |
|---|---|
| 1. Trespass | a) a breach of duty towards other people generally |
| 2. Damages | b) financial compensation for loss or injury |
| 3. Strict liability | c) physical or economic harm or loss |
| 4. Damage | d) person who makes a claim |
| 5. Defamation | e) making public a statement which harms someone's reputation |
| 6. Tort | f) total legal responsibility for an offence which has been committed |
| 7. Slander | g) an interference with private property |
| 8. Plaintiff | h) spoken statement which damages someone's character |

*TASK 5. Complete the following letter with the words below in correct form.*

**UNDERGOING, SUFFERED (2), CLAIM, INJURY, CARES, OWES, ADMITTED, NEGLIGENCE, EARNINGS**

**Dear Sirs**

Our client: Ms Paula Kosmaczewski

Re: Accident at Rothbury 'Get Fit' fitness centre on 8 March 2007

We are instructed by the above-named client with regard to a personal (1) ..... that took place as a result of an accident in your Rothbury fitness centre on 8 March.

We are instructed that the circumstances of the accident were that our client was running on an exercise machine when the rotating track stopped abruptly and she fell forward and (2) ..... an injury to both her right shoulder and right knee. A member of the centre's staff was summoned by another centre user. The staff member assisted our client. Another member of staff said that the running machine had not been maintained recently. Our client was assisted by centre staff to a taxi and went home. On the 30 March our client consulted her doctor because of the pain and restricted movement in her shoulder and knee as a result of the accident. Her doctor referred her to the hospital for specialist examination and treatment. Our client is still (3) ..... medical treatment and has recovered 80% but is advised by medical consultants that she is unlikely to recover 100%.

Our client is self-employed as a freelance musician. As a result of the accident she was unable to fulfil ten weeks of contracted work and has (4) ..... a loss of (5) ..... .

As you are aware, under section 2 of the Occupiers' Liability Act 1957 the occupier of the premises (6) ..... a duty of (7) ..... to all visitors to keep the premises and equipment reasonably safe. Our client's accident results from a failure to keep equipment safe and a member of staff (8) ..... liability. Our client has a valid (9) .....against you in (10) ..... .

*TASK 6. Read the following text 2:*

**Tort 2: Clinical negligence**

David Jones specialises in clinical negligence at a regional firm, Jameson's. Katrina MacLellan is a 3rd year law student who is undertaking a summer work placement in the litigation department at Jameson's. David is describing his practice to Katrina.

**David:** At Jameson's, claimants instruct us, that is to say, individuals come to us, to get an idea of whether they have a potential claim, to find out how strong, their claim is, and what the process will involve. Depending on that advice, they may then instruct us to pursue the claim on their behalf. The likely amount of damages has to be enough to cover the cost of investigating a claim.

**Katrina:** How do individuals finance this legal work? Isn't it very expensive?

**David:** Yes, it can be. I'm always very careful to give clients a fee estimate at the outset. Initially this will just be for the cost of exploring the claim. This will involve obtaining the client's medical records from the relevant general medical practice or hospital. I usually go through these before instructing an independent expert to prepare a report. The department keeps a register of experts which we use for an impartial, that is, unbiased, opinion. Some clients may have legal expenses instirance or may qualify for Public Funding and others may have to fund themselves. In those cases we usually agree a payment schedule with the client. If we do pursue the claim this is usually on a conditional fee basis, that is, 'no win no fee', so there is an element of risk involved.

**Katrina:** What does the success of a claim depend on?

**David:** Well, obviously the basis is that the claimant has sought medical advice or treatment and believes that as a result of that advice or treatment their health has suffered. We have to show that there is a causal link between the two things – that there is causation.

The second essential leg is that there has been an element of negligence. Sometimes this involves extremely complicated evidence. Basically, we need to demonstrate that the course of action or advice given by the doctor in the case in point would not be that advised by a similarly experienced and reputable body of practitioners. As you can imagine, the role of the expert in all of this is extremely

important. We rely upon them to explain how the action of the defendant has adversely affected the outcome for the patient.

The other extremely important point is that the claimant must bring the claim within the limitation period. This is usually within three years of the event, although this may be extended if the case involves a child or the claimant has a mental disability.

*TASK 7. Complete the sentences with the words from the text in correct form.*

1. We have to decide whether there is a _____
2. Has the treatment _____ influenced the health of the client?
3. We look for someone who can give an _____
4. It's essential that we're able to establish _____between treatment and the negative effect upon the client.
5. Once the case has been explored we decide whether to _____
6. We have to estimate the _____costs of the action.
7. Clinical negligence cases may be charged to clients _____
8. _____, the claim would be within the limitation period.
9. The solicitor_____ the clients a fee estimate.
10. The firm _____the claim.
11. The solicitor_____ the client's medical records.
12. An independent expert_____ a report.
13. The department _____a register of experts.
14. The firm_____ a payment schedule with the client.
15. We _____the claim on a conditional fee basis.
16. The action of the defendant has adversely_____ outcome for the patient.
17. The claimant must_____ the claim within the limitation period.

*TASK 8. Give Russian equivalents to the following word combinations and learn them.*

| | |
|---|---|
| To assume liability | The guilt lies with |
| To determine liability | The guilt for/of |
| To (dis)claim liability | To cause/ inflict damage to |
| To do the harm | To pay damages |
| To suffer harm | To sue for damage |
| To prove one`s guilt | Liability of the damage |
| To admit one`s guilt | Compensation for the damage |

*TASK 9.* ***Round Table.*** *Discuss the following issues. Suggest possible solutions:*

1. Individuals should take more personal responsibility instead of relying on negligence claims.
2. Medical malpractice lawsuits are necessary to protect patient rights and ensure accountability.
3. Consumers have a duty to use products responsibly rather than relying on lawsuits for compensation.
4. Social media platforms should be held liable for defamatory content posted by users.
5. Tort reform is necessary to prevent excessive litigation and frivolous lawsuits.
6. Corporations should face harsher penalties for environmental damage caused by their negligence.

# UNIT 3

*TASK 1. Read the text 1. (For more information on the topic read the Supplemented reading text 2)*

## CONTRACT

The basic principles of contract law in the English system arise from established custom and rules and are fundamental to all areas of law in practice. Reference is made to these principles in drafting and interpreting the provisions of any legal agreement, such as a lease, a loan agreement, a sales agreement, a consultancy agreement, a hire purchase agreement, a hire contract, or a service contract, etc. The principles of contract law will determine whether and at what point a binding agreement has been made between the parties concerned.

Formation of a contract requires the presence of four essential elements:

- **Offer**

The contract must contain the basic terms of the agreement and be capable of acceptance without further negotiation. This does not mean that the initial communication between parties will in itself constitute an offer. For example, in an auction situation, the seller, known as the vendor, may make an invitation to treat – invite an offer – by setting out the conditions of sale (for example when payment will be made) with the exception of the price. The offer is submitted by the purchaser, who offers to purchase at a specified price and will usually incorporate the terms of the invitation to treat into his/her offer.

- **Acceptance**

There must be an unqualified agreement to proceed on the basis set out in the offer and it must be communicated to the offeror – the person making the offer-in order to be effective. If the offeree – the person receiving the offer-states that he or she accepts the of-

fer subject to contract, that is, some variation of the terms, then no contract is formed. This would be a qualified acceptance, which constitutes a counter offer.

Issues may arise as to whether the acceptance has been communicated. Two rules determine this:

The reception rule applies to instantaneous forms of communication, for example telephone calls. The contract is said to be formed when the acceptance is received by the offeror.

The postal acceptance rule, where there is a delay between the communication being sent and received, for example by post. The contract is formed when the acceptance is sent by the offeree.

To avoid uncertainty, the offeror may specify the method and timing of acceptance. Agreement on essential terms, for example price and delivery, must be certain and not vague.

- **Consideration**

For a contract to be enforceable something of value must be given, for example a price, even if it is of nominal value, say £1.

- **Intention**

It is assumed that contracting parties intend to create legal relations, particularly in commercial circumstances. This is, however, a rebuttal presumption - an assumption that can be contradicted - if there is contrary evidence.

*TASK 2. Complete the conversations with the correct legal agreement from the text.*

1. We rented a car for a week in Austria.

What did the ……cover?

2. The office's windows are always dirty. I want them cleaned regularly by a firm of window cleaners.

You'll need a good ……

3. I want to buy a new car but we can't afford to pay the whole price at once. I'm going to pay in monthly instalments.

You'll need to check the interest rate on the ……. .

4. We're going to be living in London for about 18 months, so we're going to rent a flat.

Make sure you get a reasonable …… .

5. I'm going to have to borrow a large sum of three of money for about three years.

Try to get the best .....…… you can from your bank.

*TASK 3. Make word combinations using words from the box. Consult the text if necessary. Translate them into Russian, make sentences of your own.*

| | | |
|---|---|---|
| contrary | offer | conditions of |
| parties | essential | contracting |
| counter | uncertainty | evidence |
| avoid | sale | qualified |
| contract | presumption | acceptance |
| terms | subject to | rebuttal |

*TASK 4.* ***Case Study.*** *Work in groups of clients seeking advice and experts. In groups "Experts" work out the strategy how to give advice*

*(Consult the text if necessary). In groups "Clients" choose a case and make questions. Clients move round the classroom asking every Expert for advice on their case. Vote for the best service.*

1. Building work started on a major construction project before all the elements of the contract had been agreed. Both parties expected that reaching an agreement would not be a problem. However, final agreement was never reached and eventually the claimants stopped work and claimed for work done. The defendants counter-claimed for the breach (break) in the contract. ***Under English law, was there a contract?***
2. Helena applied for shares in a company. The shares were allotted to her and a notice of allotment was posted to her. It never arrived. ***Under English law, had she become a shareholder or not?***
3. Two women went regularly to bingo sessions together and had an arrangement to share whatever they won. One of them won a bonanza (extra) prize of £1,107. She claimed it was not covered by the sharing arrangement. ***Under English law, was their agreement legally binding?***

*TASK 5. Read the text 2.*

## FORM OF CONTRACT

A binding contract must be:

- in the form required by the law;
- between parties with the capacity to contract - that is, legally capable to contract-or made by agents or representatives of the contracting parties with the authority to act.

It should be:

- enforceable in the event that one of the contracting parties fails to perform the contract, It may be
- made in writing:
- made orally:
- implied from conduct, that is, by the behaviour of the contracting parties.

However, the law does require that some agreements are made in writing. This is usually because registration is required for the agreement to be effective and the relevant registry requires a written agreement. Examples of agreements to be made in writing include:

- contracts for the sale of land;
- contracts of guarantee;
- contracts for transfer of shares;
- contracts which must be made by deed, for example a lease for more than three years.

A simple contract requires consideration - the price in exchange for a promise to do something- and becomes effective on execution, generally when it is signed. In contrast, a contract by deed does not require consideration. A deed has different formal execution requirements depending on the contracting parties. For example, a deed may need to be affixed with a seal- a printed company stamp-if one party is a limited company. Common law requires that a deed is delivered. This determines the date from which the parties are bound. It must be clear on the face of a deed that it is executed by the parties as a deed. Deeds may contain standard wording about execution, for example:

Sometimes a contract may be defective and may consequently be void or voidable or unenforceable.

A contract may be void – that is, no contract exists – if one, or both, of the parties is not recognised in law as having legal capacity to consent to a contract, for example minors – young people under 18 – or persons with certified mental incapacity.

A contract is voidable, that is, it may be avoided, or cancelled, by one of the parties if there is some defect in its formation. For example, if the contract for the sale of land is not in writing, the parties can either ignore the defect and treat the contract as fully binding, or one of the parties can use the defect as a means for setting the contract aside.

Some contracts may be neither void nor voidable but cannot be enforced in a court of law, for example payment of a gambling debt. Lapse of time may render a contract unenforceable. The limitation period for a legal action brought under a deed is usually 12 years from the date of occurrence of the cause of action. An action on a simple contract is barred from being raised after six years.

*TASK 6. Replace the underlined words and phrases in a solicitor's conversation with his client with alternative words and phrases from the text in correct form.*

**Solicitor:** Does she have the (1) power to act as his agent in this agreement?

**Client:** Yes, she's acting on his behalf.

Solicitor: You understand that you can't rely on an oral agreement. The contract needs to be (2) on paper. When do you want the contract to (3) come into operation?

**Client:** They want the deed (4) signed, sealed and delivered by 31 July. We've had some problems in the past with suppliers letting us down. Can you make sure this contract will be (5) binding?

**Solicitor:** We'll use a (6) recognised set of words stating that the provisions are legally binding in the agreement we draw up for you.

*TASK 7. Complete the sentences with words from the box.*

| Barred, delivered, performed, required, bound, enforced, recognized Brought, executed, rendered, treated, onsented, implied, set aside |
|---|

1. The contract was……unenforceable after 12 years.
2. The contract was technically voidable but the parties…….. it as binding.
3. Because of the limitation period, you are …… from bringing an action. The other party has…… to the terms of the contract.
4. The contract was……by the court because it was defective.
5. Although there was no written agreement, the court decided the conduct of the parties……a contract.
6. Registration of the transfer of land is……..by the law.

*TASK 8. Read through the text quickly and complete the spaces (1-5) using these sentences (a-e).*

1. Consumer advocates are concerned because the federal electronic signature law does not define an electronic signature or stipulate what technologies can or should be used to create an electronic signature.

2. An electronic contract is an agreement created and “signed” in electronic form.

3. The law also benefits business-to-business websites who need enforceable agreements for ordering supplies and services. For all of these companies, the new law is essential legislation because it helps them conduct business entirely on the Internet.

4. Security experts currently favour the cryptographic signature method known as Public Key Infrastructure (PKI) as the most secure and reliable method of signing contracts online.
5. The notice must also indicate whether your consent applies only to the particular transaction at hand, or whether the business has to get consent to use e-documents signatures for each transaction

## NEW LAW MAKES E-SIGNATURES VALID

While contract basics generally apply to any contract, regardless of form, there are some new and emerging rules that apply specifically to contracts created online. Thanks to federal legislation recently signed into law, electronic contracts and electronic signatures are just as legal and enforceable as traditional paper contracts signed in ink. The law, known as the Electronic Signatures in Global and International Commerce Act, removes the uncertainty that previously accompanied e-contracts. However, consumer groups worry that the law doesn't adequately protect against online fraud and may create disadvantages and penalties for consumer who prefer printed agreements.

**What are electronic contracts and electronic signatures?**

1) _____An e-contract can also be a "Click to Agree" contract, commonly used with downloaded software; the user clicks an "I Agree" button on a page containing the terms of the software license before the transaction can be completed. One of the more difficult electronic contract issues has been whether agreements made in a purely online environment were "signed" and therefore legally binding. Since a traditional ink signature isn't possible on an electronic contract, people have used several different ways to indicate their electronic signatures, including typing the signer's name into the signature area, pasting in a scanned version of the signer's signature, clicking an "I Accept" button, or using cryptographic "scrambling" technology. While the term "digital signature" is used for any of these

methods, it is becoming standard to reserve the term for cryptographic signature methods, and to use "electronic signature" for other paperless signature methods.

**Are e-signatures secure?**

2) _____PKI uses an algorithm to encrypt online documents so that they will be accessible only to authorized parties. The parties have "keys" to read and sign the document, thus ensuring that no one else will be able to sign fraudulently. Though its standards are still evolving, it is expected that PKI technology will become widely accepted.

**No paper needed**

The most significant legal effect of the new e-signature law is to make electronic contracts and signatures as legally valid as paper contracts. The fact that electronic contracts have been given solid legal support is great news for companies that conduct business online. Under the law, consumers can now buy almost any goods or services-from cars to home mortgages-without placing pen to paper. 3) _____

**Federal law versus state law**

The federal electronic signature law won't override any state laws on electronic transactions provided the state law is "substantially similar" to the federal law or the state has adopted the Uniform Electronic Transactions Act (UETA). This ensures that electronic contracts and electronic signatures will be valid in all states, regardless of where the parties live or where the contract is executed.

**Do you want paper or electronic?**

If you prefer paper, the law provides a means for you to opt out of using electronic contracts. An online company must provide a notice indicating whether paper contracts are available and informing you that if you give your consent to use electronic documents, you can later change your mind. If you withdraw consent to use electronic

contracts, the notice must explain what fees or penalties might apply if the company must use paper agreements for the transaction.4) _____

Prior to obtaining your consent, the business must also provide a statement outlining the hardware and software requirements to read and save the business's electronic documents. If the hardware or software requirements change while you have a contractual relationship with the business, the business must notify you of the change and give you the option to revoke your consent to using electronic documents.

Although the e-signature law doesn't force consumers to accept electronic documents from businesses, it poses a potential disadvantage for low-tech citizens by allowing businesses to collect additional fees from those who opt for paper.

**Consumer concerns**

5) _____The law establishes only that electronic signatures in all their forms qualify as signatures in the legal sense, and leaves it up to software companies and the free market to establish which electronic signature methods will be used. Since electronic-signature technology is still evolving, many kinds of e-signatures offer little, if any, security. If a consumer uses an insecure signature method, identity thieves could intercept it online and use it for fraudulent purposes. It is expected that secure methods of electronic signatures will be adopted and become as commonplace as credit cards. However, stolen electronic signatures have the potential to become as widespread a problem for e-commerce as credit-card scams and stolen passwords. Consumer-protection groups suggest caution before signing anything online.

*TASK 9. Read the text again and answer these questions.*

1. What is the difference between a digital signature and an electronic signature?
2. What is the most important result of the new law?

3. Why do business-to-business websites welcome the new law?
4. What does the new law stipulate concerning the use of paper contracts?
5. According to the law, which kinds of electronic signatures are to be regarded as legal signatures?

*TASK 10.* ***Debates****. Note the advantages of the new law and any (possible) disadvantages that could arise as a result of the new legislation. Discuss these advantages and disadvantages with a partner. Do you think the disadvantages outweigh the advantages?*

*TASK 11.* ***Interview with a Civil Law Expert.*** *Get ready to answer the following questions using information from the whole Unit. Choose a journalist and experts. Act out the interview* What would be the answers to the questions from the task 4 in a legal system you are familiar with?

1. What other legal issues might arise?
2. What are basic principles of a contract in jurisdiction you are familiar with?
3. What agreements must be made in writing in a jurisdiction you are familiar with? What sort of problems can arise? How are they dealt with?
4. Why do you think the drafters of the law left 'electronic signature' undefined?
5. Is this an advantage or disadvantage?
6. What is the status of electronic contracts in your own jurisdiction?

# UNIT 4

*TASK 1. Read the text.*

## INTRODUCTION TO INTELLECTUAL PROPERTY

Intellectual property is an expansive and rapidly changing area of the law which deals with the formulation, usage and commercial exploitation of original creative works. A majority of the issues that arise within this area revolve around the boundary lines of intangible property rights and which of those rights are afforded legal protection. The abstract quality of the property rights involved presents of contrast to other areas of property law.

Furthermore, the rapid changes occurring in the field raise topical debates over such things as gene patenting, genetically modified food and peer-to-peer networking (e. g. music piracy on the internet).

Traditionally, intellectual property rights are broken down into three main areas: patent, trademarks and copyrights. Other areas which warrant mentioning are trade secrets, design rights and the concept of passing off.

A patent is a monopoly right in an invention. Patent law is regulated in various jurisdictions through legislation. A patent must be granted to the relevant legislation in order to create the monopoly in the invention. Once the patent is granted, the protection remains in force to a statutory period of years, e. g. 20 years in the UK. Most patent legislation requires that a patentable invention: 1) is novel; 2) involves an inventive step; 3) is useful or capable of industrial application: and 4) is an invention or, in the US, non-obvious. Many things are excluded from patentable subject matter due to unsuitability, public policy and morality.

A registered trade mark is similar to a patent in that it provides the holder with an exclusive right to use a ‘distinctive’ mark in relation to a product or a service. A common aspect of applicable legis-

lation is that the mark must be distinctive. In other words, it must be capable of functioning as an identifier of the origin of the good and there by avoid confusion, deception or mistake. Deception has been deemed to include, for example, the use by another of a domain name that is substantially similar to the trade mark, so-called cybersquatting.

Copyright is a right subsisting in original literary, dramatic, musical and artistic works and in sound recordings, films, broadcasts and cable programs, as well as the typography of published editions. Copyright holders possess economic rights associated with their works, including the essential right to prohibit unauthorized use of the works. The most common requirements for copyright protection are that the work must be in material form and it must be original in the sense that the work 'originates' from the relevant author. Copyright only provides a partial monopoly in a work, as various rules provide exceptions by which a work may be copied without infringing on the rights of the author.

Of course, infringement of intellectual property right may in enforcement actions being brought against the infringing perty. As part of these actions, remedies might include damages, injunctions and account of profits, depending on the right infringed and the extent and nature of the infringement.

*TASK 2. Match the two halves of these definitions of key terms from the text. Consult the glossary if necessary.*

1. The term passing off refers to the practice of a company ... .
2. The term design right refers to a right ... .
3. The term cybersquatting refers to the practice ... .
4. The term injunction refers to an order issued by a court ... .
5. The term trade secret refers to the intellectual property of a business ... :

a) which prohibits the copying of an original, non-commonplace design of the shape or configuration of a product;
b) which prohibits a specific action from being carried out in order to prevent damage or injury;
c) illegally trading on the reputation of another company by misrepresenting its goods or services as being those of the other company;
d) which it does not want others to know about;
e) of registering a trade mark as a domain name with the intention of later selling it to the;
f) rightful owner.

*TASK 3. Explain what is meant by these terms related to intellectual property rights in your own words. Use the sentences in Exercise 2 as models.*

1. intangible rights;
2. right of fair use;
3. infringement of right.

*TASK 4.* ***Round Table.*** *Discuss the following issues. Suggest possible solutions:*

1. Copyright terms should be significantly reduced to promote access to knowledge and culture.
2. Intellectual property laws should be globally standardized to prevent legal loopholes and inconsistencies.
3. Developing countries should have more flexibility in enforcing IP laws to support economic growth and access to essential goods.
4. Intellectual property rights should not come at the cost of restricting scientific collaboration and public welfare.
5. Challenges with IP law in Kyrgyzstan.

*TASK 5. Read the text 1. Trainees at a law firm have been asked to help prepare a section on Intellectual Property (IP) law for the monthly e-newsletter circulated to clients. Some of their preparatory notes are below.*

## COPYRIGHT

**How the interest or right arises –** An automatic right arising from statute. Copyright arises as soon as an original work (literary, dramatic, musical, or artistic, as defined in the main UK statute: Copyright Designs and Patents Act 1988, and its subsequent amendments) is created and embodied in a specific media (for example on film, in a sound recording, in print, or as an electronic record). Copyright also arises in the typography (the layout) of the published works.

**What protection is available?**

**–** It is the expression in a particular tangible form which is protected rather than the idea itself.

The copyright owner, normally the author, has exclusive rights, including the rights to make copies, to sell copies to the public, or to give a public performance of the work. The owner may license, usually in writing, the reproduction of the work.

**Action required-**The right cannot be registered.

It is possible to use a copyright symbol (C) followed by the author's name and date to indicate that it is intended that the work should have copyright protection, but it is not necessary to do this.

## PATENT

**How the interest or right arises** – A patent is a territorial right given to the patent holder for a statutory period of years. It must be applied for in each jurisdiction for which protection is required. In the UK, it may be granted by the UK Patent Office, in the USA it is issued by the Patent and Trademark Office.

To be patentable, an invention must:

- be novel, that is, not made public anywhere before the filing date on which the application/ description is submitted for patent;
- be capable of industrial application, that is, use or application in some kind of industry, for example be a process, a material, or a device;
- result from an inventive step. In the US, the test is to be non-obvious, that is, be something distinctive which could not have been produced by anyone with relatively good knowledge in the relevant area;
- not be an excluded thing 'as such' (Patents Act 1977). For example, it cannot be a discovery, a scientific theory, an aesthetic creation or, in the UK, a business method.

**What protection is available? –** The invention becomes a property interest vested in the inventor, which he/she can transfer, by assignment, to another.

It confers the right to exclude others from making, using or selling the invention. The import into the UK of a product with a UK patent will be in contravention of the patent.

**Action required-** An application should be filed on the Patent Office before any steps are taken to make the invention public.

A patent application may fail or the grant of a patent can be revoked, that is, removed from the Register in terms of the Patent Acts 1997, if, for example, a successful application is made to the Court in counter-claim on grounds such as:

- the invention is contrary to public policy or morality (for example, human cloning processes) or;
- the person granted the patent does not have entitlement to it.

*TASK 6. Match the words from the text with their definitions.*

1. Tangible form
2. Automatic right
3. Assignment
4. Copyright
5. Novel
6. Inventive step
7. Entitlement
8. Filing date
9. Patentable

a) a property right that subsists in certain tangible creative works
b) a right that exists as soon as a work that can be protected by copyright is created in material form
c) the transfer of IP rights from the owner of the rights to another person or organization
d) having a fixed material existence
e) the right to own a patent
f) the date on which the full description of an invention is formally applied for
g) the criterion for assessing whether an invention is not an obvious development of what has been done before, in the judgement of someone who is skilled in the relevant area
h) not having been disclosed anywhere else in the world before
i) the capacity of an invention to meet the criteria set by statute in order for an application to be granted

*TASK 7. Read the text 2.*

## TRADE MARK

**How the interest/ right arises-** A trade mark, or mark, needs to be registered at the Patent Office to be protected. A trade mark as territorial it can be a sign including words symbols, or pictures, or a combination of all these elements. Its function is to represent the goods

graphically and distinguish them from other goods. It is essentially a badge of origin enabling a brand. A service mark in the same as a trade mark but it identifies the source of a service.

**What protection is available? -**To be capable of registration, a trade mark must be original and sufficiently distinctive from any other marks for the same or similar goods or services. The mark must be specific to the goods or services to which it is to apply and must not be misleading or contrary to law or morality.

In the UK, a trade mark can be enforced to protect the mark's proprietor under the Trade Marks Act 1994, which implements the EC (European Community) Trade Mark directive.

**Action required-** Application to the Trade Mark Registry at the UK Patent Office for a national trade mark; or for a CTM (Community Trade Mark) valid throughout the EU (European Union), to OHIM (the Office for Harmonization in the Internal Market -Trade Marks and Designs); or to the Patent and Trademark Office for granting of a trademark in the USA.

Not all trade marks are registerable, for example where the shape results from the nature of the goods, such as an umbrella. The mark may be licensed for authorized use.

## DOMAIN NAME

**How the interest/right arises-** Domain names are unique Internet addresses which distinguish one computer from all others connected to the Internet, for example google.com

Top level domains (TLD) include two letter country codes (ccTLD) such as uk and nl. Generic TLDs (gTLD) include.com.org, .biz, and coop. Below these are the second level domain names, for example McDonalds in McDonalds.com

**What protection is available?** – Disputes may arise when:

- two or more people are entitled to use the identical trademark in different countries and each claim the same domain name or
- a third party registers a domain name the same as, or very similar to, a famous name or trademark, hoping to sell it or to use the business value of a well-known name-a practice known as cybersquatting, or net name piracy

**Action required –** Domain names can be registered directly at accredited registrars, that is Internet name licensing authorities or by buying them from Internet naming companies. Names are registered for one or more years, often with annual renewal.

Disputes may be referred to accredited dispute resolution providers, such as the World Intellectual Property Organization (WIPO), or country registrars.

## Remedies for IP infringement

IP rights can be enforced through civil remedies, and may involve criminal sanctions. As a final remedy, the rightholder can obtain financial compensation for losses caused by infringement by choosing between damages or an account of profits which the defendant made from the infringement.

Other final remedies may include delivery up and destruction of infringing documents, a court order to reveal relevant information, or an injunction. An interim remedy, that is a provisional one, may include an interim injunction to stop an infringing activity, a search order to look for evidence of infringement, and a freezing injunction to freeze the assets of an alleged infringer before trial.

If there is misrepresentation as to the trade origin of goods leading to damage to the trading goodwill of another person, it may give rise to an action in tort-a civil wrong known as ‘passing off.

*TASK 8. Match the words from the text with their definitions.*

1. Sign
2. interim injunction
3. trade mark
4. Top level
5. Trading goodwill
6. Passing off
7. Graphically
8. Infringer
9. Freezing injunction
10. Cybersquatting
11. Account of profits
12. Dispute resolution provide

a) anything graphic that conveys information, for example numerals, words, letters, packaging, shape of the goods, etc.
b) using clear images, lines, characters, musical notation,
c) any sign, which is capable of distinguishing the goods or services of one business from others
d) part of an Internet address indicating the type of organisation
e) person or organisation that interferes with or violates another's rights
f) action whereby a person or business registers a domain name and uses it in bad faith
g) a property right associated with the attracting of business custom
h) a civil action where there has been misrepresentation of goods or services leading to damage a business
i) court order to stop the movement or sale of assets
j) temporary court order until the trial
k) organisations which offer a service to investigate complaints and reach decisions
l) a discretionary remedy available when there has been infringement of intellectual property,

*TASK 9.* Complete the sentences below using the verb forms in the box.

| Alleged, be infringed, enforce, had ruled, has been registered, proceed, to be determined, to issue |
|---|

1. The appeals court held that a trial regarding a claim of copyright infringement could _____ .
2. The appeals court affirmed that an infringement claim could be made only if the copyright _____ .
3. The court held that because two former business partners both behaved badly in the course. of a trade-mark dispute, it would not _____ the trade-mark rights held/by one party.
4. The appeals court upbeld the decision of the trial court which _____ that a commercial photographer was due payment of royalties for mass reproduction of a photograph that was used without permission.
5. After a group of instructors left their employer, who had developed a special training programme, and went into direct competition with him, an appeals court held that it was _____ at trial if the training programme was due trade-secret protection.
6. The appeals court affirmed that a patent was invalid, and thus could not a trial regarding a claim of copyright _____ .
7. The court denied a request _____ an injunction against the sale of a book which the plaintiff contained infringed copyrighted material.

*TASK 10.* ***Interview with a Civil Law Expert.*** *Get ready to answer the following questions using information from the whole Unit. Choose a journalist and experts. Act out the interview.*

1. How may copyright be enforced?
2. What is not patentable in jurisdiction you are familiar with?
3. What do you think about the fair use of copyrighted material for distance learning? Do you think the law should continue to allow educators to use such material without permission, or do you think the rights of the copyright holders need greater protection?
4. Copyright protection on the Internet is also a major concern of the entertainment industry. Do you think the rights of the music and film producing corporations should be better protected?
5. What types of trade marks may be registered in your jurisdiction?
6. What types of disputes can arise over domain names?

*TASK 11.* ***Debates.*** *Prepare for and against arguments on the issues below. Divide into "Pros" and "Cons" groups and present your arguments advocating your position.*

1. The rise of digital media makes traditional intellectual property laws outdated and ineffective.
2. The patent system promotes scientific and technological advancement by rewarding inventors.
3. Patents create monopolies that hinder innovation and limit market competition.
4. Current intellectual property laws unfairly favor large corporations over individual creators.
5. Copyright terms should be significantly reduced to promote access to knowledge and culture.

# UNIT 5

*TASK 1. Read the text.*

## EMPLOYMENT LAW

Our Employment Law Department is a specialist team. We advise on relevant law, employment policy and procedure, and the formation of employment contracts. We assist in the negotiation and settlement of disputes, and take or defend proceedings before an Employment Tribunal or in a civil court.

Employment law usually involves a mixture of contractual provisions and legislation regulating the relationship between employer and employee, and governing labour relations between employers and trade unions, for example with regard to collective agreements and collective bargaining about conditions of work.

Developments in case law and changes to legislation, for example from the implementation of European Community directives, affect employers and employees alike. The practice of living and working in wages; different jurisdictions means that lawyers also have to refer to international conventions to establish legal requirements.

The main statutory rights of employees include entitlement to:

- a national minimum wage;
- equal pay for like work, that is, broadly similar work;
- a written statement of employment particulars;
- an itemised pay statement;
- time off and holidays;
- statutory sick pay;
- a healthy and safe working environment;
- family and parental leave;
- protected rights on transfer of business to another employer (see the Transfer of Undertakings [Protection of Employment] Regulations 2006);
- notice of termination of employment;
- not to have unlawful deductions from wages

- not to be discriminated against on groundsof sex, race, sexual orientation, disability, religion, age, part-time or fixed term employment, or trade union membership.

**Contract of employment**

It is usual practice for employers and employees to enter into a written agreement which sets out their respective obligations and rights, and which constitutes a contract of employment either at the commencement of employment or shortly before.

Clauses in the contract generally deal with pay, deductions, hours of work, time off and leave, place of work, absence confidentiality, restrictions on the actions of an employee once employment is ended (known as a restrictive covenant), giving notice the grievance procedures in the event of job loss, and variation of contract (meaning parties may agree to vary terms of the contract but terms cannot be unilaterally varied, that is, by one party without agreement).

Employers are bound by the employment contract and statutory regulation as to how they may deal with employees, particularly in relation to the termination of employment. Failure to observe such obligations and, regulations may give rise to a claim for wrongful dismissal (where the employer is in breach of contract), unfair dismissal (where the employer has not followed a fair dismissal, and disciplinary procedure before terminating the contract), or constructive dismissal (where an employee resigns because of the, conduct of his employer). Gross misconduct by the employee, for example theft from the employer, may result in summary, that is, immediate, dismissal. In other circumstances, the employee may be made redundant, for example if the employer has ceased to carry on business.

*TASK 2. Make word combinations using words from the box. Then use appropriate word combinations to complete the definitions below.*

| |
|---|
| employment, bargaining, fixed, tribunal, collective, relations, sick, trade employment, union, particulars, time, labour, pay, off, term |

1. ___ ____ salary paid when an employee cannot work because of illness
2. ____ ____ – restricted period of employment set out in contract
3. _____ ____ – organisation which represents the workers, who are its members, in discussions of pay and working conditions with their employer
4. _____ _____ – specialist court dealing in disputes between employers and employees
5. _____ _____ – written details of a position in a company
6. _____ _____ – negotiations between an employer and a trade union on terms and conditions of employment and work

*TASK 3. A lawyer is giving advice to a client about an employment contract over the phone. Replace the underlined words and phrases with alternative words and phrases from the text. There is more than one possibility for one of the answers.*

I've looked through the contract and it seems satisfactory in relation to (1) the period of warning that the contract is going to end. However, I think you should look for some adjustment on the (2) clause preventing you working in the same field for three years after you've left the company. Other than that, the terms relating to being (3) let go by the company if it fails and (4) being removed from the job, with the related (5) procedure for making a complaint and (6) changes being made to your work, are quite straightforward.

*TASK 4.* ***Case Study.*** *Work in groups of clients seeking advice and experts. In groups "Experts" work out the strategy how to give advice (Consult the text if necessary). In groups "Clients" choose a case and make questions. Clients move round the classroom asking every Expert for advice on their case. Vote for the best service.*

- An employee decides to leave her job because she is moved, without consultation, to a new position in the company which she regards as a reduction in her role. A new post covering broadly the same area as hers is offered to an outside applicant.
- An employee is forced to leave his job because he has arrived at his place of work under the influence of alcohol on several occasions.
- An employer has not gone through the appropriate procedures before forcing an employee to leave his job.

*TASK 4.* ***Interview with a Civil Law Expert.*** *Get ready to answer the following questions using information from the whole Unit. Choose a journalist and experts. Act out the interview.*

- What laws govern employment in your jurisdiction? Do they regulate the same areas (sex discrimination, race relations, disability, health and safety, and employee rights in general) that the UK laws regulate.
- What are the main statutory and contractual rights in employment in your jurisdiction?
- What rights do employers and employees have on termination of contract?
- What does the phrase *construed as discriminatory* mean? What do you think would be involved in proving that a job advertisement could be construed as discriminatory?
- What do you understand by the phrase *reasonable adjustments*? What factors do you think might be taken into account when deciding if an adjustment is reasonable?
- What do you think *compensation for[..] injured feelings* refers to? What kinds of work-related situations do you think could result in such a claim for compensation

# APPENDIX I

# WRITING AN ABSTRACT FOR YOUR RESEARCH PAPER

## Definition and Purpose of Abstracts

An abstract is a short summary of your (published or unpublished) research paper, usually about a paragraph of 6–7 sentences, 150–250 words long. A well-written abstract serves multiple purposes:

- an abstract lets readers get the gist or essence of your paper or article quickly, in order to decide whether to read the full paper;
- an abstract prepares readers to follow the detailed information, analyses, and arguments in your full paper;
- and, later, an abstract helps readers remember key points from your paper.

It's also worth remembering that search engines and bibliographic databases use abstracts, as well as the title, to identify key terms for indexing your published paper. So what you include in your abstract and in your title are crucial for helping other researchers find your paper or article.

If you are writing an abstract for a course paper, your professor may give you specific guidelines for what to include and how to organize your abstract. Similarly, academic journals often have specific requirements for abstracts. So in addition to following the advice on this page, you should be sure to look for and follow any guidelines from the course or journal you're writing for.

## The Contents of an Abstract

Abstracts contain most of the following kinds of information in brief form. The body of your paper will, of course, develop and explain these ideas much more fully. As you will see in the samples below,

the proportion of your abstract that you devote to each kind of information – and the sequence of that information – will vary, depending on the nature and genre of the paper that you are summarizing in your abstract.

And in some cases, some of this information is implied, rather than stated explicitly. *The Publication Manual of the American Psychological Association*, which is widely used in the social sciences, gives specific guidelines for what to include in the abstract for different kinds of papers – for empirical studies, literature reviews or meta-analyses, theoretical papers, methodological papers, and case studies.

Here are the typical kinds of information found in most abstracts:

1. The **context** or background information for your research; the **general topic** under study; the **specific topic** of your research.
2. The **central questions** or statement of the **problem** your research addresses.
3. **What's already known** about this question, what **previous research** has done or shown.
4. The main **reason(s)**, the exigency, the **rationale**, the **goals** for your research – Why is it important to address these questions? Are you, for example, examining a new topic? Why is that topic worth examining? Are you filling a gap in previous research? Applying new methods to take a fresh look at existing ideas or data? Resolving a dispute within the literature in your field?
5. Your research and/or analytical **methods.**
6. Your main **findings**, **results**, or **arguments.**
7. The **significance** or **implications** of your findings or arguments.

Your abstract should be intelligible on its own, without a reader's having to read your entire paper. And in an abstract, you usually do *not* cite references – most of your abstract will describe what *you* have studied in your research and what *you* have found and what *you* argue in your paper. In the body of your paper, you will cite the specific literature that informs your research.

# APPENDIX II

# HOW TO ANNOTATE AN ARTICLE: LEARN ANNOTATION STRATEGIES

## What Does 'Annotate' Mean?

To 'annotate' is, simply, to 'add notes'. These could be comments, explanations, criticisms, or questions pertaining to whatever text you're reading.

To annotate a text, you generally highlight or underline important pieces of information and make notes in the margin. You can annotate different texts.

As a student, you can annotate **articles**, **essays**, or even **textbooks**. Research students who compile and reference a long list of sources for their thesis will find it useful to know how to annotate a **bibliography**.

As a professional, knowing how to annotate will help you easily comprehend and retain any important information from **reports** or other **official documents** that you might have to read in the course of your work.

## How Do You Annotate?

Annotating a text involves a 'close reading' of it. In this section, you will find some examples of annotated texts.

### Step 1: Scan

This is really a pre-reading technique.

- At first glance, make a note of the title of the text, and subheadings, if any, to identify the topic of the text.
- Analyze the source, i. e. the author or the publisher, to evaluate its reliability and usefulness.

- Look for an abstract if there is one, as well as any bold or italicized words and phrases, which might offer further clues about the text's purpose and intended audience.

**Step 2: Skim**

Use this first read-through to quickly find the focus of the text, i.e. its main idea or argument. Do this by reading just the first few lines of each paragraph.

- Identify and highlight/underline the main idea.
- Write a summary (only a sentence or two) of the topic in your own words, in the margins, or up top near the title.

**Step 3: Read**

The second read-through of the text is a slower, more thorough reading. Now that you know what the text is about, as well as what information you can expect to encounter, you can read it more deliberately, and pay attention to details that are important and/or interesting.

- Identify and highlight/underline the supporting points or arguments in the body paragraphs, including relevant evidence or examples.
- Paraphrase and summarize key information in the margins.
- Make a note of any unfamiliar or technical vocabulary.
- Note down questions that come to your mind as you read, any confusion, or your agreement or disagreement with ideas in the text.
- Make personal notes – write your opinion, your thoughts, and reactions to the information in the text.
- Draw connections between different ideas, either within the text itself, or to ideas in other texts, or discussions.

**Step 4: Outline**

To really solidify your understanding of the content and organization of the text, write an outline tracking the points at which new ideas are introduced, as well as the points where these ideas are developed.

**An effective outline will include:**

- A summary of the text's main idea.
- Supporting arguments/evidence.
- Opposing viewpoints (if relevant)
- Conclusion

**When annotating any text, look for and make note of the following:**

- Key points i. e. the main or important ideas.
- Questions that occur to you as you read.
- Recurring themes or symbols.
- Quotes or statistics.
- Unfamiliar and technical concepts or terminology.
- Links to ideas in texts or related to experiences.

**What Is An Annotated Bibliography?**

A **Bibliography** is a list of the books (or other texts) referred to, or cited, in academic texts such as essays, thesis, and research papers, and is usually included at the end of the text. It is also known as a **Reference List**, or a **List of Works Cited**, depending on the style of formatting.

The APA (American Psychological Association) and MLA (Modern Language Association) styles of formatting are most commonly used. The format may vary depending on the institution or publication, however, the same basic information is required for each individual reference or citation in a bibliography.

**This includes:**

- Author's name.
- Title of the text.
- Date of publication.
- Source of publication i. e. the journal, magazine, or website where the text is published.

An **Annotated Bibliography**c ontains, in addition to the basic information above, a descriptive summary, as well as and an evaluation of each individual entry. The purpose of this is to inform the reader about the relevance, accuracy, and reliability of each reference or citation.

An annotated bibliography is titled '**Annotated Reference List**' or '**Annotated List of Works Cited**', which can be listed alphabetically by author, title, date of publication, or even by subject.

Let us see an example of an entry in an annotated bibliography, formatted in both the APA and MLA styles.

**Strategies For Annotation**

Depending on whether you are reading printed or online text, you can either annotate by hand, using stationery and/or symbols or by using document programs.

**The following strategies will help you annotate as you read:**

**#1) Using A Key/Legend**

Create a key or legend for annotating your text with different types of markings and specify what kind of information each marking indicates. This will help to easily identify and access relevant pieces of content.

**#2) Using Stationery**

Pens and markers are most commonly used to highlight or underline key points in the text. These are, however, the least active ways of engaging with any text, and you might end up highlighting or underlining more of the text than is necessary.

**#3) Using Online Tools**

Once you know how to annotate a text, you can do this online too! There are different mobile apps and online softwares that can help you annotate digital documents such as PDFs, online articles, and web pages.

**The most commonly used digital annotation tools:**

Some of these digital annotation tools are free, such as **Diigo** and **A.nnotate**, while others like **Filestage** and **Cronycle** are paid tools. You can also download extensions that will allow you to annotate webpages, such as **hypothes.is**, which is a free browser extension, or **Grackle**, an add-on tool for Google Docs.

# APPENDIX III

# HOW TO WRITE A GREAT SUMMARY

**What is a summary?**

Really, a summary is a general term used to describe any writing that briefly explains, or "summarizes", a larger work like a novel, academic paper, movie, or TV show. Summaries are usually short, from one or two sentences to a paragraph, but if you're summarizing an enormous work, like all seven Harry Potter books, they can stretch out over pages.

However, for academic paper and more formal writing, summary writing leans towards factual and clinical.

Summaries appear in many different shapes and forms, including book reports and other school papers. Academics use summaries all the time for research papers when they write an abstract which is essentially a summary of an entire research paper.

**How to write a summary in 4 steps**

Summary writing uses the same best tips for all good writing. If you want to know how to write a summary yourself, we break the process down into 4 basic steps.

**1. Read or watch the source material**

The first step is fairly obvious: Read or watch whatever it is you're writing a summary about.

If you're doing a book report or similar paper, there's always a temptation to skip this step and just rely on other people's summaries. We don't recommend it, though. For starters, how can you trust

the writer of that summary? What if they just wrote their summary based on another person's summary, too? Moreover, you may miss some key points or events that the other summary overlooked.

The only risk-free way to write a summary is to read or watch the source material yourself. Otherwise you're liable to miss something essential.

**2. Make a list of the key points**

Next comes the outlining phase, where you list out what points to include in your summary. How many items go on your list depends on the length of both the summary and the source material. If you're running long, start cutting items that are less of a priority.

It always helps to use your memory at first. The most significant events will have left an impact on you, so using what you remember is a good filter for what's vital. However, learn to separate what's truly necessary and what's just personal preference. Just because you fell in love with a secondary character doesn't mean they're worth mentioning in the summary.

To fill in the gaps of what you've missed, you may need to reread or rewatch your source material. Feel free to skim it to save time; you just need to map out the significant points, not reread every word.

For longer pieces, break the source into sections and make a separate list for each section. For example, if you're summarizing a research paper, you might write different lists for the Methods, Results, and Conclusion sections respectively. This is optional but helps you organize everything for larger works.

**3. Write the summary in your own words**

Next, write the first draft of your summary following the lists you made in the previous outlining stage. If you're summarizing a book, film, or other media, it's best to use chronological order (even if the story is told out of order).

The key here is using your own words. While you're free to copy the occasional direct quote in your summary writing, it's best to use original language to make it your own.

Pay close attention to transitions to make your writing easier to comprehend, such as *however, as result,* and *meanwhile.*

**4. Edit and cut what's unnecessary**

Last comes the proofreading phase, where you reread your summary and correct any mistakes or awkward wording. For summary writing, watch out for unnecessary information, too; every word is crucial, so removing unnecessary information gives you more room to elaborate on the main points.

## REFERENCE


1. *Вдовичев А.В., Оловникова Н.Г.* Английский язык для магистрантов и аспирантов. – М., 2015.
2. *Boshno Svetlana.* The subject and the method of the theory of law and state (jurisprudence). URL: https://cyberleninka.ru/article/n/the-subject-and-the-method-of-the-theory-of-law-and-state-jurisprudence (дата обращения: 28.02.2025).
3. *Рябова Е.В., Мартынова Е.А*., *Башаева А.В.* Актуальные проблемы и перспективы высшего юридического образования в Российской Федерации // Право и государство: теория и практика. – 2023. URL: https://cyberleninka.ru/article/n/aktualnye-problemy-i-perspektivy-vysshego-yuridicheskogo-obrazovaniya-v-rossiyskoy-federatsii (дата обращения: 28.02.2025).
4. *Бобров В.К.* Прокурорский надзор: учебник для вузов / В.К. Бобров. 8-е изд., перераб. и доп. – М.: Издательство Юрайт, 2025. – 191 с. (Высшее образование). ISBN 978-5-534-20538-1. Текст: электронный // Образовательная платформа Юрайт [сайт]. URL: https://urait.ru/bcode/558344 (дата обращения: 28.02.2025).
5. *Grebennikov V.V., Sangadzhiev B.V.*, *Vinogradova E.V.* Place of the prosecutor's office of the Russian Federation in system of bodies involved in criminal prosecution // International journal of environmental & science education. – 2016. – Vol. 11. № 15. – P. 7857–7867. URL: https://repository.rudn.ru/en/records/article/record/4039/ (дата обращения: 28.02.2025).
6. *Гартунг Н.* История уголовного судопроизводства и судоустройства Франции, Англии, Германии и России. – М., 2010.
7. *Philip Heymann* and Carol Petrie, What's Changing in Prosecution? – 2001. URL: https://nap.nationalacademies.

org/catalog/10114/whats-changing-in-prosecution-report-of-a-workshop) (дата обращения: 04.03.2025).

8. Закон Кыргызской Республики от 26 июля 2023 года № 148, 29 декабря 2023 года № 215. Статья 7. Рассмотрение и разрешение обращений в органах прокуратуры. URL: https://cbd.minjust.gov.kg/112631/edition/1278072/ru (дата обращения: 28.02.2025).
9. *Alexander Lautensach and Sabina Lautensach.* Human Security in World Affairs: Problems and Opportunities-2024. URL: https://socialsci.libretexts.org/Bookshelves/Political_Science_and_Civics/Human_Security_in_World_Affairs__Problems_and_Opportunities_2e_(Lautensach_and_Lautensach)/18%3A_Empowering_International_Human_Security_Regimes/18.2%3A_Modern_International_Law (дата обращения: 04.03.2025).
10. *Лебединец И.Н.* Международное право. Энциклопедия. – М. 2003.
11. *Posner to* Postmodernism and Beyond – Second Edition. URL: https://www.researchgate.net/publication/5143888_Economics_and_the_law_from_posner_to_post-modernism_Nicholas_Mercuro_and_Steven_G_Medema_Princeton_University_Press_1997_235_pp) (дата обращения: 28.02.2025).
12. *Cooter, Robert and Ulen*, *Thomas.* Law and Economics, 6th edition (2016). Berkeley Law Books. Book 2. URL: http://scholarship.law.berkeley.edu/books/2 (дата обращения: 28.02.2025).
13. *URL: https://www.azquotes.com/quotes/topics/prosecutor.html*
14. *Gillian D. Brown, Sally Rice.* Professional English in Use: Law. – Cambrige, 2015. URL:https://www.academia.edu/41648107/Cambridge_Professional_English_in_Use_Law (дата обращения: 04.03.2025).

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PROFESSIONAL ENGLISH
PUBLIC PROSECUTOR`S ACTIVITY
INTERNATIONAL LAW
CIVIL LAW

The manual is for students seeking master`s degree in law
on “Public Prosecutor`s activity”, “Civil Law”
and “International Law” as a major subject

Computer layout *A.S. Melnikova*

Signed to print 17.07.2025.
Format 60×84 $^{1}/_{16}$. Offset printing.
Volume 10,0 printed sheet. Circulation 100 copies. Order 31.

KRSU Publishing House,
24к Ankara street, Bishkek, 720048