



НАРОДНАЯ УКРАИНСКАЯ АКАДЕМИЯ

CRIME AND PUNISHMENT

Учебное пособие по устной практике
для студентов 4 курса
факультета "Референт-переводчик",
обучающихся по специальности
035 «Филология»

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Харьков
Издательство НУА
2017

УДК 811.111'271(075.8)
ББК 81.432.1-923.7
С 89

*Утверждено на заседании кафедры
германской и романской филологии
Народной украинской академии.
Протокол № 10 от 15.04.2017*

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Навчальний посібник з усної практики містить тексти і вправи з курсу «Усна практика», які сприяють вивченню і закріпленню активної лексики, а також формуванню навичок спонтанного мовлення. Навчальний посібник призначений для студентів четвертого року навчання.

С 89 **Crime and punishment** : уч. пособ. по устной практике для студ. IV курса фак-та «Референт-переводчик», обучающихся по специальности 035 «Филология» / Нар. укр. акад., [каф. герм, и роман. филол. ; сост.: М. Н. Медведь, И. В. Змиева, Л. В. Михайлова]. – Харьков : Изд-во НУА, 2017. – 88 с.

Учебное пособие по устной практике содержит тексты и упражнения по курсу «Устная практика», которые способствуют изучению и закреплению активной лексики, а также формированию навыков спонтанной речи. Учебное пособие предназначено для студентов четвертого года обучения.

УДК 811.111'271(075.8)
ББК 81.432.1-923.7

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UNIT 1. THE LAW

The English word 'law' refers to limits upon various forms of behaviour. Some laws are descriptive: they simply describe how people, or even natural phenomena, usually behave. An example is the rather consistent law of gravity; another is less consistent laws of economics. Other laws are prescriptive - they prescribe how people ought to behave. For example, the speed limits imposed upon drivers are laws that prescribe how fast we should drive. They rarely describe how fast we actually do drive, of course.

In all societies relations between people are regulated by prescriptive laws. Some of them are customs - that is, informal rules of social and moral behaviour. Some are rules we accept if we belong to particular social institutions, such as religious, educational and cultural groups. And some are precise laws made by nations and enforced against all citizens within their power. These texts are mainly concerned with the last kind of law, and it is important to consider to what extent such laws can be distinguished from customs and social rules.

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

Government-made laws are nevertheless often patterned upon informal rules of conduct already existing in society, and relations between people are regulated by a combination of all these rules.

What motives do government have in making and enforcing laws? Social control is undoubtedly one purpose. Public laws establish the authority of the government itself, and civil laws provide a framework for interaction among citizens. Without laws, it is argued, there would be anarchy in society (although anarchists themselves argue that human beings would be able to interact peacefully without laws if there were no governments to interfere in our lives).

Another purpose is the implementation of justice. Justice is a concept that most people feel is very important but few are able to define. Sometimes a just decision is simply a decision that most people feel is fair. But will we create a just society by simply observing public opinion? If we are always fair to majorities, we will often be unfair to minorities. If we do what seems to be fair at the moment, we may create unfairness in the future. What should the court decide, for example, when a man kills his wife because she has a painful illness and begs him to help her die? It seems unjust to find him guilty of a crime, yet if we do not, isn't there a danger that such mercy-killing will become so widespread that abuses will occur?

Sometimes laws are simply an attempt to implement common sense. It is obvious

to most people that dangerous driving should be punished; that fathers should provide financial support for their children if they desert their families; that a person should be compensated for losses when someone else breaks an agreement with him or her. But in order to be enforced, common sense needs to be defined in law, and when definitions are being written, it becomes clear that common sense is not such a simple matter. Instead, it is a complex skill based upon long observation of many different people in different situations. Laws based upon common sense don't necessarily look much like common sense when they have been put into words!

COMPREHENSION

1. Give your own example of a descriptive law and a prescriptive law.
2. Which is/are true?
 - a) Social customs and rules are both enforced by governments.
 - b) Many laws reflect social customs.
 - c) Unlike social customs, laws are usually international.
3. Name four possible influences on a government when it is making a law.
4. Why do some laws appear to differ from common sense?

TASK

Give Russian/Ukrainian equivalents of the following words and phrases:
descriptive law, prescriptive law, to enforce law, justice

TEXT 1. THE CONSTITUTION AS THE BODY OF FUNDAMENTAL PRINCIPLES

Despite major revisions over the centuries, the legal system of England and Wales is one of the oldest still operating in the modern world. (Scotland and Northern Ireland have their own internal legal systems, although many laws made by the British government operate throughout Britain.) English law has directly influenced the law of former British colonies such as Australia, India, Canada and the nation where law plays a bigger part in everyday life than anywhere else, the United States.

The British Constitution is an unwritten constitution, not being contained in a single legal document. It is based on statutes and important documents (such as the Magna Carta), case law (decisions taken by courts of law on constitutional matters) customs and conventions, and can be modified by a simple Act of Parliament like any other law. It contains two main principles - the rule of law (i.e. that everyone, whatever his or her station, is subject to the law) and the supremacy of Parliament, which implies that there is no body that can declare the activities of Parliament unconstitutional and that Parliament can in theory do whatever it wishes. The constitutional safeguard of the separation of powers between the Legislature (the two Houses of Parliament), which makes laws, the Executive (the Government), which puts laws into effect and plans policy, and the Judiciary, which decides on cases arising out of the laws, is only theoretical.

American concern for justice is written into the basic law of the land, the United States Constitution, which establishes the framework for the federal government and guarantees rights, freedom and justice to all.

The American Constitution is based on the doctrine of the separation of powers between the executive, legislative and judiciary. The respective government institutions - The Presidency, Congress and The Courts - were given limited and specific powers; and a series of checks and balances, whereby each branch of government has certain authority over the others, were also included to make sure these powers were not abused. Government power was further limited by means of a dual system of government, in which the federal government was only given the powers and responsibilities to deal with problems facing the nation as a whole (foreign affairs, trade, control of the army and navy, etc). The remaining responsibilities and duties of government were reserved to the individual state governments.

Article V allowed for amendments to be made to the Constitution (once passed by a two-thirds majority in both houses of Congress and then ratified by the legislatures of three-fourths of states). Most of the rights and freedoms that Americans enjoy are guaranteed in 10 short paragraphs amended (added) to the Constitution (ten amendments), collectively known as the Bill of Rights - the freedoms of religion, speech, the press, freedom to assemble in public and to ask the government to consider grievances. Among the other guarantees are the right in criminal cases to be judged in a public trial by an impartial jury, to be represented by a lawyer at one's trial and freedom from cruel or unusual punishment. Because of the Bill of Rights police cannot stop and search or arrest a person without good reason, nor can they search anyone's home without clear cause and the permission of a court. The ten amendments protect the citizen against possible tyranny by the federal government. So far only twenty-six amendments have been made to the Constitution.

COMPREHENSION

1. What is the main characteristic of the British Constitution?
2. What is the Constitution of the United Kingdom based on?
3. What are the main principles of the British Constitution?
4. Find the terms in the text to match the following definitions:
 - a) there is no legal opposition to the Parliament;
 - b) everyone is equal before the law;
 - c) laws are made, put into effect, and interpreted by different bodies.
5. Make notes on the American Constitution under these headings:
 - a) based on;
 - b) restrictions;
 - c) flexibility.

TASK

Give Russian/Ukrainian equivalents of the following words and phrases:

statute, case law, the Magna Carta, customs and conventions, the rule of law, the

supremacy of the Parliament, executive power, legislative power, judiciary power, to abuse a power, amendments to the Constitution, the Bill of Rights

TEXT 2. THE MAIN BRANCHES OF LAW

All the rules requiring or prohibiting certain actions are known as law. In the most general sense, there are two kinds of law - natural law and positive law. Natural law has been recognised since the ancient world to be a general body of rules of right conduct and justice common to all mankind. This concept grew from the observation of the operation of the laws of nature and their uniformity. Positive law, on the other hand, consists of regulations formulated by the heads of a country or society. In many cases, natural laws have been written into positive laws by governments. The prohibition against killing, for example, is common to virtually all of mankind, and most nations have enacted laws against it.

In modern legal systems there are two primary branches of law. These are criminal law and civil law. Criminal law defines offences so harmful to society that violations are punished by fines, imprisonment, or even death. Such offences include murder, armed robbery, theft, rape, kidnapping, assault, and embezzlement. In the late 20th century, many nations have added laws on airplane hijacking and terrorist activities to their books because both involve violence against people. There are also lesser offences, such as driving through a stop sign or behaving badly in public, that may also bring fines. But even these so-called lesser offences can become serious, if injury or death results from them.

Civil laws define the rights and liabilities of individuals in relation to each other and to society. Actions in civil law may enable one person to recover money from another, for example, but it does not require payment of money to the government in the form of a fine. If, for instance, one person hires another to do work for him, and they sign a contract, the individual must do the work or he is considered to have broken the contract. The one who breaks the contract may be sued in court. One of the most common types of civil actions is the divorce trial, in which a contract is at issue.

In a criminal action a governmental unit asks the court to try an individual who is alleged to have committed a specific offence. Normally the person has been indicted for the offence by a grand jury (*see* Jury System). In the United States the governmental unit may be the federal, state, or local jurisdiction, depending on the law that has been violated. Murder, robbery, and rape are state crimes. Traffic offences are usually handled locally - by the town, city, or county; though they occasionally fall within the jurisdiction of a state. Robbery of banks insured by the Federal Deposit Insurance Corporation, an arm of the federal government, is a federal offence. In all cases, the person on trial - the defendant - is presumed innocent until found guilty beyond a reasonable doubt. In criminal trials the plaintiff - the party bringing the complaint - is the governmental unit through its attorneys. The prosecuting arm of the federal government is the Department of Justice and

regionally based federal attorneys. In a local jurisdiction, it is the state's attorney or the attorney general of a state that brings the action.

In civil cases, generally one person - the plaintiff - asks the court to determine whether another person - the defendant - has violated the plaintiff's rights in some way and should, therefore, make up for it in some way. Usually the plaintiff asks the court to order the defendant to pay an amount owed, either because of a promise in the form of a contract or by way of damages because the defendant caused injury to the plaintiff. If the court agrees, it will issue an injunction, an order that a person take some action (such as deliver goods that were promised in a contract) or refrain from doing something (such as playing a radio so loud that it disturbs the neighbours). Violation of an injunction, however, changes the action from a civil one to a criminal one, because failing to carry out the instructions of the court is a criminal offence, that is, an offence against the state. An individual who violates an injunction is, therefore, subject to imprisonment or fine. Most civil cases do not involve injunctions, fines, or penalties if there is a settlement or judgement in the trial. Sometimes there is what is called an out-of-court settlement. If, for instance, one person is suing another over injuries received in an auto accident and wants a large sum of money, the two parties may settle on a lesser sum, agreeable to both, outside of court. Such a settlement can take place even if a trial is already in process.

One important distinction is made between private - or civil - law and public law. **Civil** law concerns disputes among citizens within a country, and **public** law concerns disputes between citizens and the state, or between one state and another.

The main categories of English civil law are:

<u>Contracts:</u>	binding agreements between people (or companies)
<u>Torts:</u>	wrongs committed by one individual against another individual's person, property or reputation
<u>Trusts:</u>	arrangements whereby a person administers property for another person's benefit rather than his own Land Law
<u>Probate:</u>	arrangements for dealing with property after the owner's death
<u>Family Law.</u>	

The main categories of English public law are:

<u>Crimes:</u>	wrongs which, even when committed against an individual are considered to harm the well-being of society in general;
<u>Constitutional Law:</u>	regulation of how the law itself operates and of the relation between private citizen and government;
<u>International Law:</u>	regulation of relations between governments and also between private citizens of one country and those of another.

COMPREHENSION

1. Explain the difference between natural and positive law.
2. Name the two main branches of positive law.
3. Explain the difference between civil law and public law.

4. Decide which branch of law -- civil or criminal - is concerned with the following:
- a) acts of violence;
 - b) giving important state secrets away;
 - c) disputing the ownership of the house;
 - d) killing a man;
 - e) getting money by deceit;
 - f) setting a building on fire;
 - g) making copies of documents and signatures in order to deceive;
 - h) obtaining a divorce;
 - i) hijacking;
 - j) demanding debts repayment.

TASK

Give Russian/Ukrainian equivalents of the following words and phrases:

criminal law, civil law, public law, offence, violation, rights and liabilities, to sue in court, to allege, to try, to be indicted for the offence, jurisdiction, to be presumed innocent, plaintiff, defendant, to bring a complaint, attorney, injunction

TEXT 3. HISTORY

One of the earliest systems of law of which we have knowledge is the collection of laws, known as the Code of Hammurabi, the Babylonian king, which was carved in stone about 1900 B.C., and which can be seen in the British Museum in London. Another early code is the code of Hebrew law, contained in the Book of Exodus in the Bible.

In Greece each city had its own law. Some law were common to many city-states, such as the law relating to family life. In the seventh century B.C. the Greeks began to put their laws into writing. About 594 B.C. Solon, the famous Athenian law-giver, provided a new code of law. The Athenians did not consider it necessary to have legal experts for non-criminal cases. In a civil case the verdict was given by a jury, which might number anything from 201 to 2,500. The members of the jury listened to speeches made by the persons who had brought the case before them, and by their friends. Barristers were not allowed, but speeches were sometimes prepared by professional speech-writers.

Roman law is one of the greatest systems that has ever existed. It was based upon custom, and by A.D. 528 the quantity of Roman law had become so great that the Emperor Justinian in Constantinople ordered a clear, systematic code of all the laws to be made.

Roman law has had a deep influence on the law of the world. The law of the most European countries is based upon it, and it has had some influence on Anglo-Saxon law, which is the other great law system in the world. For many years Roman law seemed to be lost or forgotten, but it reappeared in the eleventh century, when there was a great revival of learning. Many European countries began to use it in their

courts. In France, however, until Napoleon codified the law in 1804, each province had had its own laws. The Napoleonic Code was a splendid achievement, and has been copied in many countries.

COMPREHENSION

1. Which is the most ancient system of law known today - the Hebrew law? The Code of Hammurabi? The Greek law? The Roman law?
2. How many members of the Jury were there in Greece - 12? 6? No jury at all? From 201 to 2,500?
3. In which early system of law can barristers be found - in Hebrew law? In Babylonian law? In Greek law?
4. When did Roman law reappear from oblivion - in 1804? In the Middle Ages? In the eleventh century?
5. Which system of law carved in stone can be seen in the British Museum - the Hebrew law? The Code of Hammurabi? The Code of Solon? The Napoleonic Code?

UNIT 2. JUDICATURE

TEXT 1. JUDICIAL INSTITUTIONS

In all legal systems there are institutions for creating, modifying, abolishing and applying the law. Usually these take the form of a hierarchy of courts. The word "court" originally meant the enclosed space in a courtyard where a king or other ruler sat to settle disputes and to decide upon punishments for crimes. Today the word has several meanings. It may mean the room where a trial is held. It may also refer to the judge, several judges sitting in a group, or the judges and other officers of the court.

There are many different types of courts and several ways of classifying them. A basic distinction must be made between trial courts and courts of appeal. Trial courts, also called "courts of first instance," deal with the parties in conflict, hear witnesses, receive evidence, search out facts, and render a verdict, or decision. Courts of appeal review the work of trial courts and correct their errors, if any. The role of each court and its capacity to make decisions is strictly defined in relation to other courts. There are two main reasons for having a variety of courts. One is that a particular court can specialise in particular kinds of legal actions - for example, family courts and juvenile courts. The other is so that a person who feels his case was not fairly treated in a lower court can appeal to a higher court for reassessment (although the right of **appeal** usually depends upon the **appellant** being able to show certain reasons for his dissatisfaction). The decisions of a higher court are binding upon lower courts. At the top of the hierarchy is a supreme lawmaking body, but the process of taking an action from a lower court to the highest court may be very time-consuming and costly.

Courts can also be classified by the types of cases they handle - either civil or

criminal. In some countries there are courts of general jurisdiction, meaning that they may deal with cases of both kinds. There are also specialised tribunals, or courts of limited jurisdiction, that deal with specific types of cases such as divorce or labour disputes. And the armed services have their own legal system and courts.

Criminal Courts

Criminal courts deal with individuals accused of crimes. The purpose of the trial, normally held before a jury, is to decide whether the accused is guilty or not and, if guilty, what the punishment should be.

Prosecution in criminal trials is undertaken on behalf of the public by a public official who is usually a lawyer, such as a district attorney or state's attorney. This is because all crimes are crimes against government in that they violate laws meant to insure domestic tranquillity.

Civil Courts

Civil courts are not involved with offences against government. They deal with private problems between individuals or corporations in dispute over such matters as the responsibility for an automobile accident or over the terms of a contract. Civil suits produce the most massive and rapidly growing number of cases in the court systems. Some common examples of civil cases are suits for medical malpractice or damages from libel, and those filed by relatives of disaster victims.

The public is not ordinarily involved in such proceedings because it has no interest beyond providing the rules for a decision and a fair evaluation. Civil suits are, therefore, not prosecuted by the state as are criminal cases. In a civil suit each party engages a lawyer to present the evidence and to question the witnesses.

The object of a civil action in which the defendant is judged to be wrong is not punishment or correction of the defendant but an attempt to restore the situation to what it would have been had no legal wrong been committed. The most common decision in such cases is an order to the defendant to pay money to the wronged party. Other types of rulings in civil cases include an injunction ordering the defendant not to do something or a judgement restoring property to its rightful owner.

Courts of General Jurisdiction

There are some courts that handle only civil cases, while others are assigned only criminal trials. The more common pattern is for a single court to have both civil and criminal jurisdiction. This is the situation in Great Britain's High Court of Justice and in many American law courts. These tribunals are called courts of general jurisdiction because they deal with almost any type of controversy except for cases assigned to specialised courts. The advantage of such an arrangement is that judges can be transferred from one type of work to another. There are occasions in which civil and criminal acts may overlap. In a hit-and-run accident, for instance, if someone is killed and the driver is found to be at fault, he may be tried by the state in a criminal case for negligent homicide. And he may also be sued for damages in a civil trial. In the United States there are two separate trials for such a case. In France and some other

nations both types of responsibility - civil and criminal - can be determined in a single proceeding under a concept known as adhesion. This means that the injured party is allowed to make a civil claim during the criminal prosecution, agreeing to abide by its outcome. Common-law nations do not have this procedure.

Some large court systems, such as those in major population centres, have courts of general jurisdiction, but for the sake of convenience and ease of handling they may be organised into special branches for criminal, civil, traffic, or juvenile cases.

Courts of Limited Jurisdiction

Every nation has tribunals that deal only with specific kinds of cases. Probate courts, for example, deal only with estates of people who have died. There are commercial courts for disputes between merchants, labour courts for controversies between employees and employers, juvenile courts, divorce courts, and traffic courts.

Inferior Courts

In many jurisdictions there are what are called inferior courts. Often manned by part-time judges, they handle minor civil and criminal cases. In addition, they may also deal with preliminary phases of serious criminal cases such as setting bail, advising defendants of their rights, appointing defence counsel, and conducting hearings to decide whether evidence is sufficient to justify holding defendants for trial in higher, or superior, courts.

Appellate Courts

All of the above-mentioned courts are trial courts, or courts of first instance. Above them, to review their work, are the appellate, or appeals, courts.

The responsibilities of appellate courts are normally general. Such courts handle cases in which the fairness of other courts' decisions is questioned, or appealed. An appellate court is usually presided over by several judges instead of the single judge who presides over a trial court.

After the verdict has been rendered in a trial, an appeal is not automatic. It must be sought by some party who feels wronged by the trial ruling. An exception to this practice is acquittal in a murder case. An individual who has been found not guilty of murder may not be tried again, nor may the state appeal the acquittal to a higher court.

There are three basic types of appellate review. The first is retrial. In common-law countries this type of review is used only when the first trial was conducted in a lower court.

The second kind of review is based largely on the record of findings and evidence from the trial court. This review is fairly common in the civil-law countries of continental Europe as the first stage of an appellate review even when the trial was conducted in a superior court staffed by professional judges. During this appeal the court may hear the same witnesses and collect additional evidence.

The third type of review is based entirely on a written transcript of proceedings in the trial courts. The appeals court does not receive evidence directly; it concentrates instead on finding whether errors occurred in the original trial that are serious enough

to require a new trial or a change of the verdict. Thus, while trying to assure that correct results were reached in the trial court, the appellate court also tries to clarify the legal procedures of the case. In this way appellate courts often modify and expand the law.

COMPREHENSION

1. Explain the difference between civil courts and criminal courts.
2. Explain the difference between courts of general jurisdiction and courts of limited jurisdiction.
3. What do inferior courts deal with?
4. What are the responsibilities of appellate courts?

TASK

Give Russian/Ukrainian equivalents of the following words and phrases:

trial court, court of appeal, witness, evidence, to render a verdict, to accuse, trial, guilty, punishment, suit, proceeding, to set bails, negligent homicide, adhesion, probate courts

TEXT 2. TYPES OF COURTS

Courts differ in their jurisdiction (authority to decide a case). Generally, courts are classified as trial courts or appellate courts, and as criminal courts or civil courts.

Trial and appellate courts. Nearly all legal cases begin in trial courts, also called courts of original jurisdiction. These courts may have general jurisdiction or limited, also called special, jurisdiction. Courts of general jurisdiction hear many types of cases. The major trial court of any county, state, or other political unit is a court of general jurisdiction. Courts of limited or special jurisdiction specialise in one or more types of cases, such as those involving juvenile offenders or traffic violations.

The losing side often has the right to appeal - that is, to ask that aspects of the case be reconsidered by a higher court called an appellate or appeals court. Appellate courts review cases decided by trial courts if the losing side questions the ruling of the lower court on a matter of law. Appellate courts cannot review a trial court's decision on the facts.

Criminal and civil courts. Criminal courts deal with actions considered harmful to society, such as murder and robbery. In criminal cases, the government takes legal action against an individual. The sentences handed down by criminal courts range from probation and fines to imprisonment and, in some states, death.

Civil courts settle disputes involving people's private relations with one another. Civil suits involve such noncriminal matters as contracts, family relationships, and accidental injuries. In most civil cases, an individual or organisation sues another individual or organisation. Most civil decisions do not involve a prison sentence, though the party at fault may be ordered to pay damages.

How courts work

How criminal courts work. Most persons arrested on suspicion of a crime appear before a judge called a magistrate within 24 hours after the arrest. In cases involving minor offences, the magistrate conducts a trial and sentences the guilty. In more serious cases, the magistrate decides whether to keep the defendant (accused person) in jail or to release him or her on bail. The magistrate also may appoint a state-paid defence attorney, called a public defender, to represent a defendant who cannot afford a lawyer.

Pre-trial proceedings. In a case involving a serious crime, the police give their evidence of the suspect's guilt to a government attorney called a prosecutor. In some states, the prosecutor formally charges the defendant in a document called an information. The prosecutor presents the information and other evidence to a magistrate at a preliminary hearing. If the magistrate decides that there is probable cause (good reason for assuming) that the defendant committed the crime, the magistrate orders the defendant held for trial. In other states and in federal courts, the prosecutor presents the evidence to a grand jury, a group of citizens who decide whether the evidence justifies bringing the case to trial. If the grand jury finds sufficient evidence for a trial, it issues a formal accusation called an indictment against the suspect.

The defendant then appears in a court of general jurisdiction to answer the charges. This hearing is called an arraignment. If the defendant pleads guilty, the judge pronounces sentence. Many defendants plead guilty, rather than go to trial, in return for a reduced charge or a shorter sentence. This practice is called plea bargaining. Most criminal cases in the United States are settled in this way. But if the accused pleads not guilty, the case goes to trial.

Trial. The defendant may request a jury trial or a bench trial, which is a trial before a judge. The jury or judge must decide if the evidence presented by the prosecutor proves the defendant guilty "beyond a reasonable doubt." If not, the defendant must be acquitted (found not guilty).

If the defendant is found guilty, the judge pronounces sentence. Convicted defendants may take their case to an appellate court. However, prosecutors may not appeal an acquittal because the United States Constitution forbids the government to put a person in double jeopardy (try a person twice) for the same crime.

How civil courts work. A civil lawsuit begins when an individual or organisation, called the plaintiff, files a complaint against another individual or organisation, called the defendant. The complaint formally states the injuries or losses the plaintiff believes were caused by the defendant's actions. The complaint also asks for a certain amount of money in damages.

The defendant receives a summons, a notice that a complaint has been filed. It directs the defendant to appear in court on a certain date. The defendant then files a document called an answer. The answer contains the defendant's version of the facts of the case and asks the court to dismiss the suit. The defendant also may file a counterclaim against the plaintiff.

In most cases, the complaint and the answer are the first of a series of documents called the pleadings. In the pleadings, the plaintiff and defendant state their own claims and challenge the claims of their opponents. Most civil cases are settled out of court on the basis of the pleadings. However, if serious questions of fact remain, a formal discovery takes place. This procedure forces each litigant (party involved in the case) to reveal the testimony or records that would be introduced as evidence in court. If the case still remains in dispute after the discovery, it goes to trial.

Civil cases may be decided by a judge or by a jury. The judge or jury determines who is at fault and how much must be paid in damages. Both sides may appeal.

Differences in procedures

Most countries make a rather clear distinction between procedures in the civil law, concerned with individuals' rights and duties and obligations toward one another, with those in the criminal law, concerned with wrongful acts harmful to the community. For example, an English criminal court may force a defendant to pay a fine as punishment for his crime, and he may sometimes have to pay the legal costs of the prosecution. But the victim of the crime pursues his claim for compensation in a civil, not a criminal, action.

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

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

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

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

COMPREHENSION

1. In English law an act of violence against a person may be treated both as a crime and as a civil tort. Explain some of the differences between the two procedures.
2. Compare the principles of 'proof beyond reasonable doubt' and 'proof on the balance of probabilities'.
3. Which is/are true?
 - a) Both damages and fines are sums of money.
 - b) Both damages and fines may benefit the victim of an accident.
 - c) Damages are part of the civil system of law.

TASK

Give Russian/Ukrainian equivalents of the following words and phrases:

the party at fault, arrested on suspicion, to appear before a judge, a magistrate, minor offences, to release smb on bail, a public defender, pre-trial proceedings, a suspect, a prosecutor, an information, at a preliminary hearing, an indictment, to answer the charges, an arraignment, to plead guilty, plea bargaining, a jury trial, a bench trial, to put a person in double jeopardy, plaintiff, defendant, a summons, to file a complaint, to file a counterclaim, pleadings, a civil tort

TEXT 3. NATIONAL COURT SYSTEMS

There are two significant types of national court systems: unitary and federal. In a unitary system - such as exists in Great Britain, France, and Japan - all the courts are structured into a single national network of tribunals headed by a national Supreme Court.

Under federal systems governmental powers are divided among national, state (or provincial), and local authorities. This arrangement exists, in slightly differing forms, in the United States, Canada, and Australia.

The United States has perhaps the most complex overall court system in the world. There is a court system at nearly every governmental level: federal, state, county, and municipal. At the national level the highest power administering justice is the Supreme Court. Next in rank are the circuit courts of appeals, which deal with decisions that have been appealed from the district courts. The district courts have original jurisdiction - that is, they are the first courts to hear the cases - in all matters that relate to federal laws and in some cases that involve citizens of different states.

The district, circuit, and supreme courts are called "constitutional courts" because they were created in accordance with Article 3 of the Constitution. Congress has created several federal legislative courts. These include:

Claims Court, which determines the validity of certain kinds of claims against the nation.

Court of International Trade, which reviews appraisals and decisions of customs inspectors.

Court of Appeals for the Federal Circuit, which reviews cases appealed from the Claims Court, the Court of International Trade, and the Patent and Trademark Office.
Territorial Courts, which serve as federal district courts and state courts within various territories.
Court of Military Appeals, which reviews certain cases tried by military courts.
Tax Court, which reviews controversies about payment of all kinds of taxes.

State courts are generally based on the federal system. Each state has a Supreme Court, courts of appeals, and courts of lower jurisdiction, or authority. Those of lowest jurisdiction are courts presided over by justices of the peace. These officials try minor civil and criminal offences in rural areas and small towns. Magistrate courts, or police courts, try the same kinds of cases in villages and cities.

Municipal courts have been established in most larger cities. These courts help ease the burden on the next higher courts, the general trial courts, which have broad authority in civil and criminal cases. These higher courts are usually known as circuit, county, district, common pleas, or superior courts.

Courts around the world

The judicial systems of most countries are based on either common law or civil law. Some combine the features of both systems. This use of the term "civil law" refers to a legal system. It should not be confused with the branch of law dealing with people's private relations with one another.

In common-law systems, judges base their decisions primarily on precedents, earlier court decisions in similar cases. Most English-speaking countries, including the United States, the United Kingdom, Canada, and Australia, have common-law systems.

Civil-law systems rely more strictly on written statutes (legislative acts). Judges may refer to precedents, but they must base every ruling on a particular statute and not on precedent alone. Most European, Latin-American, and Asian countries, and some African nations, have civil-law systems.

International courts deal only with disputes between nations. The International Court of Justice, the highest judicial body of the United Nations (UN), meets at The Hague in the Netherlands. Its decisions are not binding unless the nations involved in the dispute agree to accept its rulings.

History

Early courts. Tribal councils or groups of elders served as the first courts. They settled disputes on the basis of local custom. Later civilisations developed written legal codes. The need to interpret these codes and to apply them to specific situations resulted in the development of formal courts. For example, the ancient Hebrews had a supreme council, called the Sanhedrin, which interpreted Hebrew law.

The ancient Romans developed the first complete legal code as well as an advanced court system. After the collapse of the West Roman Empire in the A.D. 400's, the Roman judicial system gradually died out in Western Europe. It was

replaced by feudal courts, which were conducted by local lords. These courts had limited jurisdiction and decided cases on the basis of local customs.

Development of civil-law and common-law courts. During the early 1100's, universities in Italy began to train lawyers according to the principles of ancient Roman law. Roman law, which relied strictly on written codes, gradually replaced much of the feudal court system throughout mainland Europe. In the early 1800's, the French ruler Napoleon I used Roman law as the foundation of the Code Napoleon. This code, a type of civil law, became the basis of the court system in most European and Latin-American countries.

By the 1200's, England had established a nation-wide system of courts. These courts developed a body of law that was called common law because it applied uniformly to people everywhere in the country. Common-law courts followed traditional legal principles and based their decisions chiefly on precedents. English common law became the basis of the court system for most countries colonised by England, including the United States and Canada.

Development of U.S. courts. The American Colonies based their courts on the English common-law system. These colonial courts became state courts after the United States became an independent nation in 1776. Only Louisiana modelled its court system on civil law. In 1789, Congress passed the Judiciary Act, which created the federal court system.

COMPREHENSION

Explain the difference between common-law systems and civil-law systems.

TEXT 4. COURTS IN GREAT BRITAIN

British law comes from two main sources: laws made in Parliament, and Common Law, which is based on previous judgements and customs. Just as there is no written constitution, so England and Wales have no criminal code or civil code and the interpretation of the law is based on what has happened in the past. The laws, which are made in Parliament, are interpreted by the courts, but changes in the law itself are made in Parliament.

The table below shows the hierarchy of British courts:

THE HOUSE OF LORDS

criminal courts

COURT OF APPEAL

(1-3 judges, no jury)

CROWN COURT

(1 judge + jury)

MAGISTRATES' COURT

(3 magistrates, no jury)

civil courts

HIGH COURT

(1-3 judges, no jury)

COUNTY COURT

(1 judge, no jury)

In general, the division between civil and criminal law is reflected in this system. The Crown Courts, for example, deal exclusively with criminal matters, the County Courts, with civil. However, the Queen's Bench Division of the High Court considers appeals from lower criminal courts, as well as civil matters, and the Magistrates Courts, while mostly concerned with criminal cases, also deal with some civil matters. The highest court, the House of Lords, deals with all matters (including appeals from Scottish and Northern Irish courts).

A criminal case usually begins in a Magistrates Court. Magistrates are local citizens with no legal qualifications, chosen because they hold a position of respect within the community, are honest and have common sense. Magistrates are not paid for their work. It is normal for three magistrates to hear any case. The magistrates can sentence people to a maximum of twelve months imprisonment, or impose a fine. Having arrested someone suspected of committing a crime, the police must decide if they have enough evidence to make a formal accusation, or charge. If they charge the suspect, they may release him on the condition that he appear on a certain date at a certain Magistrates Court. This is known as **unconditional bail**. However, the police may instead take the suspect to a magistrate so that he remains in custody until he next appears before a court. The magistrate may decide that it is not necessary to hold the suspect in custody and may agree to unconditional bail, or the magistrate may grant **conditional bail** - that is, release the suspect provided that he puts up some money as security or agrees to surrender his passport or some similar condition. As the lowest criminal court, a Magistrates Court is empowered to hear certain cases only. Some minor cases, such as parking violations, are dealt with only by the magistrates. Some serious crimes, like murder, cannot be heard by the magistrates and must go to the Crown Courts. And there are some offences where the defendant is given the choice of having his case heard in the Magistrates Court or the Crown Court. It takes much longer to have a case heard in the Crown Court, but some defendants prefer it because the facts of the case are decided by a jury, that is, ordinary members of the public.

In a Crown Court trial there are twelve jurors. These are ordinary members of the public between the ages of 18 and 70 who are selected at random. They are not paid but are given expenses while they are on jury service, which is usually for about two weeks. Service is compulsory, and it cannot normally be avoided without a good reason, such as illness. It is not necessary for a juror to know anything about the law - indeed certain people connected with the world of law, such as solicitors, are not allowed to serve as jurors. This is because the job of the jury is to listen to the case and to decide questions of fact. It is the judge's responsibility to guide them on questions of law.

This contrast between law and fact is very important. If a man is on trial for murder, for example, the judge will explain just what the crime of murder means in English law and what the prosecution has to prove. He will explain how the trial will be conducted, summarise the evidence, and tell the jurors what factors they should consider in making their decision. These are questions of law. However, whether the defendant did in fact commit murder or not is a question of fact to be decided by the

jurors themselves. It is necessary for at least ten of the twelve to agree.

The legal system also includes juvenile courts (which deal with offenders under seventeen) and coroners' courts (which investigate violent, sudden or unnatural deaths). There are administrative tribunals, which make quick, cheap and fair decisions with much less formality. Tribunals deal with professional standards, disputes between individuals and government departments (for example, over taxation).

Lawyers at work

Although many kinds of people working in or studying legal affairs are referred to as lawyers, the word really describes a person who has become officially qualified to act in certain legal matters because of examinations he has taken and professional experience he has gained. Most countries have different groups of lawyers who each take a particular kind of examination in order to qualify to do particular jobs. In England, the decision is between becoming a **barrister** or a **solicitor**. Barristers defend or prosecute in the higher courts. They specialise in representing clients in court, in arguing cases in front of a judge and have the right to be heard, **the right of audience**, even in the highest courts. In court, barristers wear wigs and gowns in keeping with the extreme formality of the proceedings. They are not paid directly by clients, but are employed by solicitors. The highest level of barristers have the title QC (Queen's Counsel). Judges are usually chosen from the most senior barristers, and once appointed they cannot continue to practice as barristers. Solicitors do much of the initial preparation for cases which they then hand to barristers, as well as handling legal work which does not come before a court, such as drawing up wills, preparing legal documents for buying and selling houses and dealing with litigation which is settled out of court. Solicitors also have a right of audience in lower courts, but in higher courts, such as the Court of Appeal, they must have a barrister argue their client's case. In general, it can be said that a barrister spends most of his time either in a courtroom or preparing his arguments for the court and a solicitor spends most of his time in an office giving advice to clients, making investigations and preparing documents. Many people believe the distinction between barristers and solicitors should be eliminated in England, as has already happened in Australia. The government is considering various proposals, but there are arguments for maintaining, as well as removing, the division.

COMPREHENSION

1. Who is responsible for making laws in Britain?
2. What is the most common type of law court in England and Wales?
3. What is appeal system?
4. What is unconditional/conditional bail?
5. Which are questions of law and which are questions of fact?
 - a) whether an alibi can be believed.
 - b) whether killing a cat is a crime.
 - d) whether a guilty defendant should be imprisoned.

TASK

Give Russian/Ukrainian equivalents of the following words and phrases:

justice of the peace, precedent, custom, conditional bail, unconditional bail, in custody, questions of fact, questions of law, juvenile court, coroners' court, the right of audience

TEXT 5. COURTS IN THE UNITED STATES OF AMERICA

Issues of crime and justice have always held Americans' attention. Americans are accustomed to bringing their claims for justice to the courts. There are few countries where so many people treat the law as part of their everyday lives. Local, state and federal courts handle approximately 12 million cases a year.

In the United States, a person accused of a crime is considered to be innocent until he or she is proven guilty. The Constitution requires that any accused person must have every opportunity to demonstrate his or her innocence in a speedy and public trial, and to be judged innocent or guilty on the basis of evidence presented to a group of unbiased citizens, called a jury. A person who has been judged guilty must still be treated justly and fairly, as prescribed by law. A person treated unjustly or cheated by another or government official must have a place where he or she can win justice. That place, to an American, is a court.

"Equal Justice Under Law". These words are carved in marble on the front of one of the most important buildings in Washington, D.C. The four-story building, in the style of an ancient Greek temple, is the one in which the Supreme Court of the United States does its work.

The United States has a dual system of federal and state courts. Federal courts receive their authority from the U.S. Constitution and federal laws. State courts receive their powers from state constitutions and laws.

Federal courts handle both criminal and civil cases involving the Constitution or federal laws, and cases in which the U.S. government is one of the sides. They also try cases between individuals or groups from different states, and cases involving other countries or their citizens. They handle maritime (sea) cases, bankruptcy actions, and cases of patent and copyright violation. All federal judges are appointed for life.

The federal court system includes district courts, courts of appeals, and the Supreme Court of the United States. District courts are federal courts of original jurisdiction - that is, they are the first courts to hear most cases involving a violation of federal law. The United States and its possessions have about 95 district courts. Each state has at least one such court.

Courts of appeals try federal cases on appeal from district courts. They also review the decisions made by such federal agencies as the Securities and Exchange Commission and the National Labour Relations Board. The United States is divided

into 12 circuits (districts), each of which has a court of appeals. An additional federal court of appeals, the United States Court of Appeals for the Federal Circuit, has nation-wide jurisdiction.

The Supreme Court of the United States is the highest court in the nation. The main work of the Supreme Court is to make the final decision in legal cases in which a charge of violation of the Constitution is made. Its decisions are final and become legally binding. Although the Supreme Court does not have the power to make laws, it does have the power to examine actions of the legislative, executive, and administrative institutions of the government and decide whether they are constitutional. A person who loses a case either in a federal court of appeals or in the highest state court may appeal to the Supreme Court, but it may refuse to review many cases. In addition to its appellate jurisdiction, the court has original jurisdiction over cases involving two states or representatives of other countries.

The federal court system also includes several specialised courts. The United States Claims Court hears cases involving claims against the federal government. The Court of International Trade settles disputes over import duties. Taxpayers ordered to pay additional federal income taxes may appeal to the Tax Court of the United States. Military courts, called courts-martial, have jurisdiction over offences committed by members of the armed forces. The Court of Military Appeals reviews court-martial rulings.

State courts. The Constitution recognises that the states have certain rights and authorities beyond the power of the federal government. States have the power to establish their own systems of criminal and civil laws, with the result that each state has its own laws, prisons, police force and state court. The lowest state courts are courts of limited or special jurisdiction. Some of these courts handle a variety of minor criminal and civil cases. Such courts include police courts, magistrate's courts, or county courts, and justices of the peace. Other lower courts specialise in only one type of case. For example, small-claims courts try cases that involve small amounts of money. Probate or surrogate courts handle wills and disputes over inheritances. Other specialised courts include courts of domestic relations, juvenile courts, and traffic courts.

Courts of general jurisdiction rank above courts of limited jurisdiction. These higher courts are known as circuit courts, superior courts, or courts of common pleas. About half the states have intermediate appeals courts, which hear appeals from courts of general jurisdiction. In some states, courts of general jurisdiction and appellate courts handle both criminal and civil cases. Other states have separate divisions on both levels. The highest court in most states is its Supreme Court.

District courts. District court is the court in which most federal cases are first heard in the United States. The district court ranks below the court of appeals. In a district court, questions of fact are decided by a jury, or, if the parties wish, by a judge. The first full hearing of a case is called a trial, and the district court is called a trial court. The district court decides on the truth of contested events, and its decision on the facts of a case is final. But the rules of law used by the court may be reviewed by a higher court, on appeal. The appeal is usually to one of the Courts of Appeals.

The Supreme Court of the United States may review a Court of Appeals decision.

There are about 95 district courts in the United States and its possessions. Each court has one or more judges, and one United States attorney. There are a total of about 565 permanent district court judges. Each is appointed for life by the President, subject to U.S. Senate approval. The courts hear most federal criminal cases, as well as civil suits arising under postal, patent, copyright, and internal revenue laws.

Lawyers

Because law is complex and because most people are involved in legal actions only rarely, professionals are needed to study law and handle legal matters for other people. Lawyers advise individuals and organisations on the requirements of law, draft legal documents, and plead cases in court.

Another name for lawyer is attorney. Strictly speaking, an attorney is one who acts for another, an appointed agent. Someone so appointed who is not a lawyer is sometimes called an attorney-in-fact, as distinguished from an attorney-at-law.

Some lawyers maintain a general practice to assist the public in all matters of ordinary law. But many lawyers, because of the complexity of the field, become specialists in such areas as tax law, administrative law, family law, labour law, corporation law, criminal law, contract law, or other branches.

Lawyers are supposed to be fully liable for their actions. They may be deprived of their licenses to practice law if they fail to represent their clients properly.

Because so much of American public and private life revolves around law and the court systems, there are far more lawyers per person in the United States than in any other country: a total of about 756,000 in 1990, which is believed to be more lawyers than in the rest of the world's nations combined. Although no clear proof is available, American lawyers seem to have a higher economic and social status than lawyers elsewhere - perhaps because of greater diversity of opportunities.

In the United States, lawyers are required to be college graduates and to attend a law school for three years. Upon graduating from law school, the student receives the degree of *Juris Doctor* (doctor of law). In addition, the law school graduate must pass an examination before being admitted to the bar. (The legal profession is called the bar because, when the profession was developing in England many centuries ago, there was a fence in courtrooms separating the judges' area from the rest of the room. This fence was called the bar, and it became customary to say that a lawyer was called to the bar, meaning he was called upon to practise his profession).

COMPREHENSION

1. Explain the sentence: "The USA has a dual system of courts".
2. What is the responsibility of the Supreme Court?
3. What do federal courts deal with?
4. What are state courts responsible for?

TASK

Give Russian/Ukrainian equivalents of the following words and phrases:

binding, to advise smb, to draft legal documents, to plead cases in court, a panel of judges

TEXT 6. TRIAL

Trial is a method of settling disputes verbally in a court of law. In most cases, the people on each side of the dispute use a lawyer to represent their views, present evidence, and question witnesses. About half the trials held in the United States are jury trials. In the other trials, the defendant chooses to be tried by a judge or a panel of judges instead of a jury.

There are two types of trials, civil trials and criminal trials. Civil trials settle noncriminal matters, such as contracts, ownership of property, and payment for personal injury. The jury decides who is at fault and how much money must be paid in damages. In a criminal trial, the jury decides the legal guilt or innocence of a person accused of a crime.

A jury trial begins with the selection of the jurors. Then the prosecutor, who argues the state's case against the defendant in a criminal trial, and the defence attorney make their opening statements to the jury. In a civil trial, one side is represented by the attorney for the plaintiff (person who began the lawsuit). The other side is represented by the defence attorney. In their opening statements, the lawyers for both sides declare what they intend to prove during the trial.

Presenting evidence. Each lawyer presents evidence to support his or her side of the case. The evidence may include documents, such as letters or receipts; or objects, such as weapons or clothing. In most cases, the evidence consists of testimony given by witnesses who are sworn to tell the truth. Witnesses generally give their testimony in response to questions asked by an attorney. Then the opposing attorney cross-examines the witnesses and attempts to find mistakes in their testimony. A witness who is suspected of deliberately lying may be accused of perjury.

The admission of evidence in a trial is governed by certain rules. In general, information is admitted as evidence only if it is relevant and firsthand. Relevant information is related to a significant question in the case and helps answer the question. Firsthand information comes from the witness's personal knowledge, not from hearsay.

Following the testimony and cross-examination, the lawyers for each side summarise the case. Then, in a charge to the jury, the judge gives instructions concerning the laws that apply to the case.

The judge in each trial decides what evidence will be admitted. He or she may declare a mistrial if improper evidence is heard by a jury or if the fairness of a trial is jeopardised in some other way. A mistrial results in a new trial with new jurors. The judge may also hold in contempt of court any person who shows disrespect for the

court by disrupting a trial. Such a person may be fined or imprisoned, or both.

Reaching a verdict. The jury is taken to a private room to discuss the case, think about it carefully, and reach a verdict. In cases that have received much publicity, the jurors may be sequestered (isolated) from other people, including their families, throughout the trial. Sequestered jurors may read newspapers and magazines only if articles about the trial have been cut out. In some cases, the judge orders that the jurors not be allowed to watch television. These restrictions prevent jurors from reading or hearing anything that could influence their opinions about the trial.

In a criminal trial, the prosecutor tries to prove the defendant's guilt "beyond a reasonable doubt," which is the standard required by law. If the jurors do not feel the prosecutor has done so, they must acquit the defendant--that is, find him or her not guilty. If the jury finds the defendant guilty, the judge sets a date for sentencing. In a civil trial, the attorney for the plaintiff must prove the plaintiff's claim by a "fair preponderance (greater weight) of the evidence."

A hung jury is one in which the required number of jurors cannot agree on a verdict. A new trial--with new jurors--is then held

In some trials, the evidence points without question to a particular verdict. In such cases, the judge may order the jury to return that verdict. A verdict so returned is called a directed verdict. The jury does not discuss a directed verdict. A judge cannot order a guilty verdict.

The criminal defendant's rights. The Constitution of the United States guarantees accused people many rights concerning a fair trial. For example, it specifies the right to a jury trial. Other guarantees are included in the Bill of Rights, the first 10 amendments to the Constitution. The first guarantee is in the Fifth Amendment. It ensures by the right of due process that each trial will be conducted according to the law.

The Sixth Amendment sets forth the most important rights of a defendant in a criminal trial. These include the right to "a speedy and public trial." The right to a speedy trial means that a person must be tried as soon as possible after being accused. But the large number of cases awaiting trial may prevent the courts from trying every defendant promptly. The right to a public trial means a defendant cannot be tried in secret. Each trial must be open to public observation.

The Constitution states that a criminal trial must be held in the community in which the crime occurred. The Sixth Amendment requires that the jurors be chosen from that community. In some situations, many local residents have formed an opinion about a case, and so the defendant cannot receive a fair trial there. The defence may then request a change of venue--that is, a change in the locality of the trial.

The Supreme Court of the United States has issued many decisions that provide additional rights for accused persons. In 1963, for example, the court guaranteed the right to free legal counsel in all felony cases. In 1972, the court extended that right to people accused of any offence involving a jail sentence.

A defendant who has been tried, convicted, and sentenced can use his or her

right to appeal. In an appeal, the defendant asks that the case be reviewed by a higher court called an appellate court. Some cases have an automatic right of appeal. In others, the defendant must show some reason for retrying the case, such as the discovery of new evidence. In most cases, the appellate court will reverse the decision of a lower court only if the appellate court feels there has been a violation of law or of the defendant's constitutional rights. An appellate court does not use a jury. Lawyers present the appeal by written arguments called briefs and by oral arguments.

The U.S. legal system is based on the belief that a person should be considered innocent until proven guilty. But only a small percentage of the legal disputes in the United States are settled by a trial. The defendant pleads guilty in most cases, and so no trial is needed.

Many cases are settled by plea bargaining. In this procedure, the prosecuting attorney agrees to dismiss certain charges, substitute a less serious charge, or recommend a shorter sentence if the defendant pleads guilty. The state saves time and money by plea bargaining rather than putting a defendant on trial. Critics of plea bargaining feel that it weakens the nation's system of justice. They point out that the defendant's guilt is assumed instead of proven, as it would be in a trial.

History.

The Saxons, who lived in England during the Middle Ages, gave accused people a trial by ordeal rather than by jury. The defendant was perhaps required to hold a piece of red-hot iron or was deliberately injured in some other way. The Saxons believed that God would heal the accused person's wounds within three days if he or she was innocent. After the Norman Conquest in 1066, two people fought if they disagreed about a matter. They believed that God would grant victory to the one who was right.

The present trial system in the United States and Canada developed from English common law and equity. Common law is a group of rulings made by judges on the basis of community customs and previous court decisions. Equity is a set of standards based on broad principles of justice. English colonists brought their legal system with them to North America.

Indictment

Indictment in law, is a written statement accusing one or more persons of a particular crime. An indictment can be issued only by a grand jury and only for a serious crime. The grand jury must find that there is probable cause (reason) to accuse a person of a crime. The word indictment comes from the Old French word *enditer*, meaning to make known. In an indictment, the grand jury makes known both the accused and the exact offence. The chairperson of the grand jury and the prosecuting attorney must sign the true bill (bill of indictment). No one can be convicted of a greater offence than that charged in the indictment. The form and language of any indictment are prescribed by law.

Officers of the Court

Courts are governmental institutions whose operations depend on many people. The judge may seem the focal point because of a prominent position in the courtroom. The judge is, therefore, the most obvious officer of the court. Others are the lawyers, clerks, bailiffs, probation officers, police officers, and administrators.

Court clerks are responsible for case records and documents, and bailiffs are in charge of keeping order. In France, Italy, and the countries of Latin America, notaries are officers of the court. They have the authority to draft wills and contracts, and they may prepare petitions for presentation in court. Probation officers oversee the behaviour of released offenders and report their observations to the court.

Jury

Jury is a group of citizens who hears the testimony in legal disputes and determines what it believes is the truth. In the United States, the law provides for three types of juries: (1) petit, (2) grand, and (3) coroner's.

Petit juries. A petit, or petty, jury is a trial jury and the most common form of jury. In a civil lawsuit, a petit jury decides who is at fault and how much money must be paid in damages. In a criminal trial, the jury decides whether the defendant is or is not guilty. The jury hears testimony by witnesses, then the lawyer for each side summarises the case. In a charge to the jury, the judge explains the laws that apply. Finally, the jury discusses the case and reaches a verdict.

If the jurors are not convinced "beyond a reasonable doubt" that a defendant is guilty, they must acquit him or her--that is, return a verdict of not guilty. Traditionally, the jurors must reach a unanimous verdict. However, some states accept a specified majority vote. Until about 1970, juries consisted of 12 members and 1 or 2 alternate jurors. Today, some states use juries of as few as 6 members. A hung jury is one in which the required number of jurors cannot agree on a verdict. A new trial--with new jurors--is held in such cases.

The names of possible jurors are selected by the court from such sources as tax rolls, voting lists, and telephone directories. From the selected names, people are then chosen by lot and summoned for possible service on a jury. Before becoming a jury member, a person is questioned by the trial judge, the opposing lawyers, or both. This procedure is known as the voir dire. The attorneys may reject any person for cause. They do so by stating why a person should not serve as a juror. For example, the person may be related to someone involved in the case. The lawyers are also permitted a limited number of rejections called peremptory challenges. Lawyers need give no reason for making these challenges. But a new trial may be ordered if a judge decides that the lawyers have made their challenges solely on account of race.

The U.S. Constitution provides that jurors in a criminal trial must be neutral regarding the case. In most situations, the jurors are selected from the community where the supposed crime occurred. An accused person may choose to be tried by a judge without a jury.

Grand jury

Grand jury is a group of citizens who decide whether there is sufficient evidence of a crime to try a person in court. Most grand juries have from 16 to 23 members, a majority of whom must agree on a decision.

In many states of the United States, there are two types of grand juries, charging and investigatory. Both meet in secret. Charging grand juries hear evidence presented by a prosecutor against a person suspected of a crime. The grand jury then decides if sufficient evidence exists to issue a formal charge, called an indictment, against the person. Investigatory grand juries examine (1) suspected dishonesty by public officials and (2) possible crime, especially organised crime. Many investigatory grand juries work with special prosecutors, who are appointed specifically for the investigation. Investigatory grand juries also issue indictments if they discover evidence of crime. In certain other states and in the federal court system, a single jury may function as both a charging and an investigatory grand jury.

The grand jury system is opposed by many people. Some claim it is too slow and costs taxpayers too much money. Some also charge that grand juries too often follow the prosecutor's wishes without considering the evidence. Supporters of the system believe it protects people from unjustified prosecution.

Coroner's juries. A coroner's jury conducts an inquest (study) into the cause of death in cases that involve doubt. Most coroner's juries consist of six members.

History

During the A.D. 800's, people in many European communities testified to a representative of the king about such matters as taxes and land boundaries. In the late 1100's, jurors acted as witnesses and described events. By the 1700's, jurors were judging the evidence of others.

TEXT 7. CIVIL AND CRIMINAL PENALTIES

There are several kinds of punishment available to the courts. In civil cases, the most common punishment is a **fine**. For criminal offences fines are also often used when the offence is not a very serious one and when the offender has not been in trouble before. Another kind of punishment available in some countries is **community service**. This requires the offender to do a certain amount of unpaid work, usually for a social institution such as hospital or decorating old people's houses. For more serious crimes the usual punishment is imprisonment. Some prison sentences are **suspended**: the offender is not sent to prison if he keeps out of trouble for a fixed period of time, but if he does offend again both the suspended sentence and any new one will be imposed. The length of sentences varies from a few days to a lifetime. However, a life sentence may allow the prisoner to be released after a suitably long period if a review (parole) board agrees his detention no longer serves a purpose. In some countries, such as the Netherlands, living conditions in prison are

fairly good because it is felt that deprivation of liberty is punishment in itself and should not be so harsh that it reduces the possibility of the criminal re-educating and reforming himself. Britain and the United States are trying to solve the shortage of space by allowing private companies to open prisons.

Other punishments available are:

probation: normal life at home but under supervision;

youth custody in special centres for young adults;

short disciplinary training in a detention centre;

compensation: paying, or working for, one's victim;

disqualification from driving;

fixed penalty fines: especially for parking offences

Capital punishment

The ultimate penalty is death (**capital punishment**). It is carried out by hanging (Kenya, for example); electrocution, gassing or lethal injection (U.S.); beheading or stoning (Saudi Arabia); or shooting (China). Although most countries still have a death penalty, 35 (including almost every European nation) have abolished it; 18 retain it only for exceptional crimes such as wartime offences; and 27 no longer carry out executions even when a death sentence has been passed. In other words, almost half the countries of the world have ceased to use the death penalty. The UN has declared itself in favour of abolition, and the issue is now the focus of great debate.

Supporters of capital punishment believe that death is a just punishment for certain serious crimes. Many also believe that it deters others from committing such crimes. Opponents argue that execution is cruel and uncivilised. Capital punishment involves not only the pain of dying (James Autry took ten minutes to die of lethal injection in Texas, 1984) but also the mental anguish of waiting, sometimes for years, to know if and when the sentence will be carried out. A further argument is that, should a mistake be made, it is too late to rectify it once the execution has taken place. In 1987, two academics published a study showing that 23 innocent people had been executed in the United States.

As the debate about capital punishment continues, the phenomenon of **death row** (people sentenced but still alive) increases. In 1991, no one was executed in Japan, but three people were sentenced to death, bringing the total number on death row to fifty. Sakae Menda lived under sentence of death for thirty three years before obtaining a retrial and being found not guilty. The debate also involves the question of what punishment is for. Is it revenge or retribution? Is it to keep criminals out of society? Or is it to reform and rehabilitate them?

TASK

Give Russian/Ukrainian equivalents of the following words and phrases:

fine, community service, detention, probation, suspended sentence, youth custody, capital punishment, death penalty, hanging, electrocution, gassing, lethal injection, beheading, stoning, shooting, death row, retribution, to rehabilitate

TEXT 8. ENFORCING THE LAW

Governments have many ways of making sure that citizens obey the law. They make the public aware of what the law is and try to encourage social support for law and order. They use police forces to investigate crimes and catch criminals. They authorise courts to complete the investigation of criminal and civil offences and to pass sentences to punish the guilty and deter others. And they make efforts to re-educate and reform people who have broken the law. Which of these is most effective in enforcing the law?

Role of police force

The police have many functions in the legal process. Though they are mainly concerned with criminal law, they may also be used to enforce judgements made in civil courts. As well as gathering information for offences to be prosecuted in the courts, the police have wide powers to arrest, search and question people suspected of crimes and to control the actions of members of the public during public demonstrations and assemblies. In some countries, the police have judicial functions; for example, they may make a decision as to guilt in a driving offence and impose a fine, without the involvement of a court.

Most countries have a national police force. This is not a situation in Britain. In Britain there are fifty-two different police forces. The country is divided into separate areas, usually the counties, each with its own independent police force. Although these forces co-operate with each other, it is unusual for members of one force to operate in another area unless their assistance is requested. The police force, like the army, has a number of ranks. The most senior policeman in a force is called the Chief Constable; the most junior is a constable. Approximately one in ten members of the force are women. The police are assisted by a number of "special constables" - members of the public who work for the police voluntarily for a few hours per week.

Police duties cover a wide range of activities, from traffic control (the job of traffic wardens is to make sure that drivers obey parking regulations, and sometimes to direct traffic) to more specialised departments such as river police. In most countries the police carry guns. The British police are usually armed with a truncheon - a short, heavy stick. British policemen can be given a gun, but only with a signed permission of a magistrate. However, a few policemen are regularly armed, such as those who guard politicians and diplomats and those whose job it is to patrol airports.

There was a time when a supposedly typical British policeman could be found in every tourist brochure for Britain. His strange-looking helmet and the fact that he did not carry a gun made him a unique symbol for tourists. This positive image was not a complete myth. The system of policing was based on each police officer having his own "beat", a particular neighbourhood which it was his duty to patrol. He usually did this on foot or sometimes by bicycle. The local bobby was a familiar figure on the streets, a reassuring presence that people felt they could trust absolutely. In the 1960s

the situation began to change. In response to an increasingly motorised society, and therefore increasingly motorised crime, the police themselves started patrolling in cars. As a result, individual police officers became remote figures and stopped being the familiar faces that they once were. At the same time, the police found themselves having to deal increasingly with public demonstrations and with the activities of a generation who had no experience of war and therefore no obvious enemy-figure on which to focus their youthful feelings of rebellion. These young people started to see the police as the symbol of everything they disliked about society. Police officers were no longer known as "bobbies" but became the "fuzz" or the "cops" or the "pigs".

Nevertheless, there is still a great deal of public sympathy for the police. It is felt that they are doing an increasingly difficult job under difficult circumstances. Generally speaking, the relationship between police and public in Britain compares quite favourably with that in some other European countries.

COMPREHENSION

1. List as many functions of the police as you can think of.
2. What is parole?

TASK

Give Russian/Ukrainian equivalents of the following words and phrases:

to investigate, to pass a sentence, to deter, to search, to question, a constable, a traffic warden, a truncheon

UNIT 3. CRIME

TEXT 1. DEFINING CRIME

If it is against criminal law, it is a crime. It is societies acting through their governments that make the rules declaring what acts are illegal. Hence, war is not a crime. Although it is the most violent of human activities, it has not been declared illegal by governments or their agencies. But petty theft--the stealing of a loaf of bread - is a crime because the laws of most states and nations have said so.

Crimes can be thought of as acts, which the state considers to be wrong and which can be punished by the state. There are some acts which are crimes in one country but not in another. For example, it is a crime to drink alcohol in Saudi Arabia, but not in Egypt. It is crime to smoke marijuana in England, but not (in prescribed places) in the Netherlands. It is a crime to have more than one wife at the same time in France, but not in Indonesia. It is a crime to have an abortion in Ireland, but not in Spain. It is a crime not to flush a public toilet after use in Singapore, but not in Malaysia. In general, however, there is quite a lot of agreement among states as to which acts are criminal. A visitor to a foreign country can be sure that stealing, physically attacking someone or damaging his or her property will be unlawful. But

the way of dealing with people suspected of crime may be different from his own country.

In this article crime will be viewed in its technical definition as an illegal act. In different times and places what has been considered a crime has varied widely. But in the modern world there are certain acts such as treason, murder, robbery, assault, and rape that are almost universally regarded as crimes. Treason, or disloyalty to one's group, especially in time of war, is perhaps one of the most universal and among the earliest acts to have been recognised as a public wrong.

In all modern civilised societies, murder is regarded as a crime. In ancient cultures and in some primitive societies that still exist, however, killing a human being was and is a relatively private matter to be dealt with by families or larger kinship groups. Deliberate killing--such as infanticide, cannibalism, head hunting, or the killing of the very old--is classified as murder in modern societies, but such practices were viewed as customary and acceptable by ancient cultures and even by some 20th-century tribes in remote parts of the world.

Every crime is legally a wrong, but not every wrong is defined as a crime. In every modern society there are significant minorities of people who hold moral or religious views about what types of behaviour are right or wrong. Some Christian groups, for example, believe that Sunday should be exclusively a day for worship and rest from labour. They therefore conclude that businesses should not be allowed to operate on that day. If this view gains sufficient support in society, laws are sometimes passed forbidding commerce and industry to operate on Sundays. What was initially a religious wrong becomes a legal wrong, or crime, as well. Prohibition is another example of something regarded as morally wrong being made a crime. No matter how immoral or harmful an act may be, it is not a crime unless it is covered by a law that prohibits it and prescribes punishment for it.

TEXT 2. TYPES OF CRIMES

Private wrongs

The legal term for a private wrong is tort. A tort is a type of civil, or private, wrong defined as harm to a person through the unlawful or dangerous activity of others. Whereas the purpose of criminal law is to protect the interests of the public as a whole by punishing the offender, the purpose of the law of torts is to protect the interests of individuals by granting payment for damages they may have suffered.

If, for example, someone eats spoiled food in a restaurant and becomes ill, he may sue the restaurant owner for payment to cover medical expenses. He may also sue for punitive, or additional, damages. Such matters as traffic accidents, slander, libel, personal injury, medical malpractice, and trespass are dealt with by tort law.

There are some instances when the same wrong can be both a crime, or public wrong, and a tort, or private wrong. A thief who steals a piece of jewellery commits the crime of larceny and the tort of conversion. Conversion can be defined as the unauthorised possession of personal property without the owner's consent. If an act is

both a crime and a tort, it can be dealt with by prosecutions in both criminal and civil courts.

Felony and misdemeanour

Not all crimes are viewed as equally serious by the law or by the public in general. Failing to put money in a parking meter is obviously a lesser offence than burglary. The law has recognised these distinctions and divided crimes into the categories of felony and misdemeanour.

Until recently, British common law classified offences as treasons, felonies, and misdemeanours. Among the felonies recognised under common law were homicide, arson, rape, robbery, burglary, and larceny. In the modern period the number of felonies has been significantly enlarged by legislation to include such offences as kidnapping, tax evasion, and drug dealing.

Misdemeanour is a term applied in Anglo-American law to offences that are neither treasons nor felonies. In the United States there is a subclassification of misdemeanour called petty offence. Among the more common petty offences are disorderly conduct, public drunkenness, and ordinary automobile driving violations. Some sex offences are misdemeanours, while others are classified as felonies.

Some misdemeanours are, like felonies, indictable offences, or those subject to action by a grand jury. Some types of assault, perjury, minor sex offences, selling liquor to minors, and operating an illegal gambling establishment are among the more common misdemeanours of this type. These differ from felonies largely in the punishments for them. Misdemeanours in the United States are those offences punishable by fines or by imprisonment in a local jail, while felonies are punishable by terms in a state or federal prison.

Great Britain abolished the distinction between felonies and misdemeanours in 1967 and replaced it with a distinction between arrestable and nonarrestable violations of law.

Crimes against the state

Broadly speaking, all crime is against the state, or government, insofar as it disturbs the public order and tranquillity. But there are three criminal activities that are directed against the existence of the state itself: treason, sedition, and rebellion. Treason is the crime of betraying a nation by acts considered dangerous to its security. Selling military secrets to a foreign power is one example; giving aid to the enemy in time of war is another. Sedition refers generally to the offence of organising or encouraging opposition to the government, especially in speeches or writings that falls short of treason. In wartime seditious acts may often be classified as treason. Rebellion is the attempted overthrow of a government; if it succeeds it is a coup, or revolution.

People and property

In democracies people are considered to have rights pertaining both to their persons and to their property. Crimes can therefore be classified into attacks on persons or on property.

Crimes against persons include homicide, assault and battery, mayhem, rape, and kidnapping.

Homicide is the general term for killing an individual. It may refer to a killing that is not criminal, such as killing in self-defence or to prevent the commission of a serious felony.

Criminal homicide is classified according to the nature of the crime. Premeditated murder is the most serious offence. Manslaughter includes killings that are the result of recklessness or violent emotional outburst. Death through negligence, or carelessness, is often called negligent homicide.

Homicide is dealt with differently under various legal systems. Under European codes, for instance, bodily injury resulting in death and death that is the result of negligence are more heavily penalised than under Anglo-American systems. European codes, on the other hand, will normally not punish a person for a mercy killing, but Anglo-American codes do. And in some countries crimes of passion are more lightly punished than in others.

The terms assault and battery are normally combined in such a way as to seem a single offence. Battery is the unlawful use of physical force on another person, and assault is the attempt to commit battery. No great force is necessary to constitute a battery: A mere touch is sufficient. It is also a battery if one administers poisons or drugs or communicates a disease. Generally it is not a battery unless the act is done with intent to do harm or with gross criminal negligence. Assault, as intent to harm, must carry with it a threat of more or less immediate danger, some obvious act that threatens battery.

Mayhem is similar to battery, but it is a more severe crime because it deprives the victim of a part of his body - hand, arm, eye - rendering him less able to defend himself. In some jurisdictions, or areas of legal authority, maiming or disfigurement constitutes mayhem. Some jurisdictions do not distinguish between battery and mayhem at all. Japan, for instance, treats all batteries similarly. And law in India divides bodily harm into "hurts" and "grievous hurts."

Rape is the most serious of sexual offences and is punished by death in some countries. Now, in most countries, it normally results in imprisonment. The term statutory rape refers to an individual's having sexual relations with a child, even with the child's consent. In France statutory rape also refers to laws against taking advantage of subservient persons such as employees or wards.

Kidnapping is the unlawful carrying away of a person by force or unlawful seizure and detention.

The crimes against property are theft and larceny, embezzlement, forgery, counterfeiting, receiving stolen property, robbery, burglary, arson, and trespass. Most of these crimes involve stealing in one form or another, but distinctions are made between them to indicate the seriousness of the offence. Theft is the general term covering larceny, robbery, and burglary.

Larceny is the taking away of personal goods without the owner's consent. Robbery is a form of larceny involving violence or the threat of violence against the victim. Burglary is defined as the breaking and entering of a building with the intent

to commit a theft or some other felony.

The common street crime called mugging combines robbery with assault and battery.

Embezzlement is the illegal taking for one's own use of goods--usually money--by someone to whom the goods have been entrusted. Bank employees, for example, have been found guilty of embezzling the bank's funds.

Receiving stolen property is a crime because one becomes what is called an "accessory after the fact." This is a degree of participation in crime by agreeing to it and co-operating with the criminal. The purpose of receiving stolen property is to sell it. The person who does the selling is called a fence because he acts as a barrier between the criminal and the sale of stolen property.

Arson is the unlawful and voluntary burning of property. If the fire causes death, the arsonist is considered guilty of murder even if there was no intent to kill. The property burned need not be someone else's. Many persons have been convicted of burning their own property in order to collect insurance money.

Trespass is the unauthorised entry upon land. Neither knowledge of what one is doing nor malice is necessary for a trespass to be committed. Once a trespass is proved, the trespasser is usually held accountable for any resulting damages.

Victimless Crimes

Many societies have outlawed actions on the basis of religion or morality. Sumptuary laws, for instance, are regulations that restrict extravagance in dress, food, drink, and household equipment. And acts such as the practice of adultery and homosexuality have frequently been deemed crimes. Gambling, too, is outlawed in many places. Even drug abuse--the use of banned or controlled substances--has sometimes been called a victimless crime because it, like gambling, involves no attack upon either persons or property.

The term victimless crimes, however, is somewhat inaccurate. Gambling and drug abuse, like alcoholism, are now considered addictions. The person involved victimises himself as well as his family and friends by his uncontrolled habit. Overcoming these addictions usually requires some type of therapy.

White-Collar Crime

The designation white-collar crime refers to violations of law by persons who use their jobs to engage in illegal activities. Embezzlement is a typical white-collar crime. Such violations usually involve fraud, swindle, tax cheating, and other duplicity in financial dealings.

The amount of white-collar crime has grown in advanced nations to the extent that it is one of the costliest crimes in society. Billions of dollars a year are misappropriated through various kinds of swindles--far more than in the more conventional crimes of larceny, burglary, forgery, auto theft, and robbery.

Organised Crime

Organised crime is one of the largest business enterprises in the advanced

industrial societies. While the United States has long been deemed the centre of organised crime, such activities also flourish in Canada, Japan, France, Great Britain, and other places with prosperous economies. Such profitable endeavours as gambling, drug trafficking, bookmaking, prostitution, protection schemes, labour racketeering, and the numbers racket have long been controlled by various organised crime factions. Most of these activities are local or national in scope, but the increasing use of drugs since 1965 has led to the establishment of international networks of crime in order to move drugs from one country to another, to process them, and to distribute the billions of dollars in profits that result from their sale.

Ethnic factor

Apart from the outlaw gangs of the old American West, organised crime is mostly a city phenomenon. One of the best accounts of early American gangs is told by Herbert Asbury in 'The Gangs of New York', published in 1927 and reprinted in 1970. The gangs of which he wrote were for the most part made up of young immigrants or the children of immigrants, and most of them were Irish. The Irish were, in the middle of the 19th century, among the groups most discriminated against in the United States. As a result they tended to cluster together in their own neighbourhoods. Discrimination in employment turned many young Irishmen to a life of crime simply because there were few other ways to earn a living.

As the years passed, other immigrant groups joined the teeming masses that lived in the slums of larger cities. Soon Jewish gangs, Greek gangs, and Italian gangs began to supersede the Irish. What had happened, of course, was that the Irish--who had been in the United States longer--had become accepted. The more recent arrivals now found themselves at the bottom of the economic ladder.

By the early part of the 20th century, a fairly sizeable criminal underworld had developed in the major cities, especially in New York City, Chicago, and San Francisco. But it was no longer simply the matter of economic deprivation that led to crime. Enterprising individuals of diverse ethnic backgrounds found that the most rapid rewards came to them through crime. American society was becoming more prosperous, and the gangs persisted in doing what they knew best--the rackets. Soon the federal government handed organised crime a golden opportunity to expand its activities and increase its profits to an unprecedented extent.

The Eighteenth, or Prohibition, Amendment to the Constitution went into effect in 1920. The manufacture and sale of alcoholic beverages was outlawed in the United States. Organised crime took up the challenge of supplying the nation with liquor. Prohibition proved to be the catalyst that established the wealth and power of modern organised crime syndicates.

In New York City organised crime was mostly controlled by a few Jewish gangs. The best-known name was Arnold Rothstein. It was he who, as crime overlord, financed some of the more notorious gangs during the early years of Prohibition. It was Rothstein who conceived the idea of making all of organised crime into a large national business with money financed through illegal alcohol.

He was assassinated before his dream could become a reality. With his death the

decline of the old Jewish gangs began, and the Sicilians and other Italians were soon moving into positions of power in most major cities. This was the era of Lucky Luciano in New York and the more famous Al Capone in Chicago (*see* Capone).

That there should be an ethnic factor in organised crime is understandable: The United States is a nation of immigrants who came seeking opportunity. Real wealth was in the hands of a few. Immigrants felt they had to make opportunities where none existed. Some within each ethnic group, no matter what the legal opportunities, preferred the ways of crime.

It must be noted that, compared to the total number of any ethnic group, the number of those involved in crime has always been very small. But these few have often and unfairly reflected badly on the millions of their countrymen who became part of their new homeland without turning to crime. Those who have been most victimised by criminals are usually the very ethnic groups from which the criminals have emerged.

The ethnic succession in crime has continued. In the late 20th century, in the United States, there are gangs of blacks, Hispanics, Chinese, Japanese, Vietnamese, and others. These have tended to replace the Italian gangs in the inner cities, while the older organised crime syndicates have maintained a larger network that often employs members of the newer gangs. The interconnections of gangs have become especially significant with the great increase in drug trafficking from Latin America, the Middle East, and Southeast Asia.

The involvement of black Americans in crime represents a somewhat different situation from that of the other ethnic groups. First of all, the blacks were not part of the great migration from Europe and Asia to the United States. They were brought here to be slaves, and they existed in slavery (except for a significant number of free blacks in the North) until after the Civil War. Their migration to the cities of the North happened later than that of most other ethnic groups. When they arrived in the cities, they found themselves doubly disadvantaged. Not only were they poor, as most immigrants were, but they were also black and therefore subject to the racism that was so endemic in American society. They were, then, in a more difficult economic situation than other ethnics when it came to getting and holding jobs.

The Mafia problem

To most Americans the terms organised crime and Mafia are the same. This unfortunate mistake arose because so many criminals who made great reputations in the 1920s and after came from Italy and, in particular, Sicily. The Mafia has for centuries been a notorious Sicilian organisation. And some Sicilians with Mafia connections came to the United States. But the Mafia as an organisation was never transplanted to the United States. Nor is there an American branch of that organisation. Despite the seemingly overwhelming Italian involvement in American organised crime from the 1920s to the 1970s, most were non-Sicilians. And, despite the presence of Italians in crime, there have always been many other ethnic groups equally involved.

The persistence of the Mafia legend results from the fact that organised crime and the motion picture industry became established at about the same time. Gangster films,

from 'Little Caesar' in the 1930s to 'The Godfather' in the 1970s, have given the viewing public a fascinating but distorted notion of the underworld. Today organised crime has less to do with ethnicity than it does with exploring every possible avenue of illegal and legal gain, often on an international scale.

Computer Crime

Computer crime is a way to commit crime, not a type of crime. By the mid-1980s computers were in use in nearly every kind of commercial, financial, and industrial enterprise. As record-keeping devices computers are unsurpassed in the amount of information that can be kept on a readily available file. Credit-card companies, banks, savings and loan associations, insurance companies, credit bureaus, and many other institutions keep computerised customer files. This information is for the private and confidential use of the customer and the institution.

Access to such confidential information, as well as to the more complex computer systems operated by government agencies, has been gained by computer experts, often with the intent to defraud or embezzle. Someone working within a bank or other financial organisation may easily gain access to the company's computers to transfer funds to his own or a friend's account or to another bank.

Owners of personal home computers, too, have found ways to break into company computer systems. To accomplish a break-in of this kind, a computer operator needs a modem, a device that will connect his computer by telephone to another computer system. He also needs to know how to access another system through its code. For the average person, this would be a very difficult task; but for someone well-versed in computer logic, it has proved relatively easy. According to an American Bar Association report in 1984, billions of dollars are being lost through computer theft each year.

TEXT 3. ELEMENTS OF PROOF

In many legal systems it is an important principle that a person cannot be considered guilty of a crime until the state proves he committed it. The suspect himself need not prove anything, although he will of course help himself if he can show evidence of his innocence. The state must prove his guilt according to high standards, and for each crime there are precise elements, which must be proven.

There are usually two important elements to a crime: (i) the criminal act itself; and (ii) the criminal state of mind of the person when he committed the act. In Anglo-American law these are known by the Latin terms of (i) **Actus reus** and (ii) **Mens Rea**. The differences between these can be explained by using the crime of murder as an example.

In English law there is a rather long common law definition of **murder**. The unlawful killing of a human being under the Queen's Peace, with malice aforethought, so that the victim dies within a year and a day.

Malice aforethought refers to the mens rea of the crime and is a way of saying

that the murderer intended to commit a crime. Of course, the court can never know exactly what was in the head of the killer at the time of the killing, so it has the difficult task of deciding what his intentions must have been. The judge-ments in many recent cases show that English law is constantly developing its definition of intent.

There is a different definition of mens rea for each crime. Sometimes the defendant must have intended to do a particular thing. In murder, however, it is interesting that the defendant need not have intended to kill, but just to have wounded someone seriously. He need not even have had a direct intention; in some cases, a defendant had been found guilty if he killed someone because of recklessness - not caring about the dangers. In other crimes, it is enough to have been negligent or careless without any clear intention or even recklessness.

The rest of the murder definition refers to the actus reus. The prosecution must show that the suspect did in fact cause the death of someone. It must be an unlawful killing under the 'Queen's Peace' because there are some kinds of killing which the state considers lawful - for example, when a soldier kills an enemy soldier in a time of war. A time limit is specified in order to avoid the difficulties of proving a connection between an act and a death that takes place much later. This may be especially relevant in the case of a victim who has been kept alive for many months on a hospital life support machine.

In deciding if the defendant's act caused death, the court must be sure that the act was a **substantial cause** of the result. In the 1983 case of Pagett, the defendant held a girl in front of him to prevent police from firing at him. But he himself shot a policeman and one of the policemen fired back, accidentally killing the girl. The court decided that the defendant could have foreseen such a result when he shot at the policeman from behind the girl, and, as a result, his act was a substantial cause of the death. In the 1959 case of Jordon, the defendant stabbed a man who was then taken to a hospital where he started to recover. But he died when hospital staff gave him drugs to which he was allergic. In this case the court decided that the hospital's error was the substantial cause of death rather than the attack by the defendant.

In some cases doing nothing at all may be considered an actus reus, such as in the 1918 case of R. Vs. Gibbons and proctor, in which a child starved to death because his father did not feed him.

In general, if the prosecution fails to prove either actus or mens, the court must decide there was no crime and the case is over.

Defences

If actus and mens have been proved, a defendant may still avoid guilt if he can show he has a **defence** - a reason the court should excuse his act. Different systems of law recognise different and usually limited sets of defences. For example, English law sometimes allows the defence of **duress** - being forced to commit a crime because of threats that you or someone else will be harmed if you don't.

Another defence is that of **insanity**. In most countries a person cannot be found guilty of a crime if in a doctor's opinion he cannot have been responsible for his

actions because of mental illness. But this defence requires careful proof. If it is proven the defendant will not be sent to a prison, but instead to a mental hospital.

It might be argued that a person is not responsible for his actions if he is **intoxicated** - drunk or under the influence of drugs. In fact, an intoxicated person may not even know what he is doing and thus lacks mens rea. However, in Britain and many other countries, there is a general principle that people who knowingly get themselves intoxicated must be held responsible for their acts. Consequently, intoxication is not a defence.

Nearly every system of law recognises the defence of **self-defence**. In English law, a defendant can avoid guilt for injuring someone if he can convince the court that the force he used was reasonable to protect himself in the circumstances. In some countries, shooting an unarmed burglar would be recognised as self-defence, but in other it might be considered unreasonable force.

The concept of defence should not be confused with that of **mitigation** - reasons your punishment should not be harsh. If a person has a defence, the court finds him not guilty. It is only after being found guilty that a defendant may try to mitigate his crimes by explaining the specific circumstances at the time of the crime. In France, the defence of **crime of passion** is sometimes used to lessen the sentence: that your act was directly caused by the unreasonable behaviour of your lover.

COMPREHENSION

1. What are the two important elements of a crime, which the prosecution must prove?
2. Which is/are true? In England, a person may be guilty of murder if he killed someone
 - a intentionally.
 - b having intended only to injure him or her slightly.
 - c without caring about the dangers of his actions.
3. What is the difference between a defence and mitigation?
3. Name and explain defences.

EXERCISES

EX. 1. Suggest words or word combinations to match each of the following definitions:

- a) the legal process in court whereby an accused person is investigated, or tried, and then found guilty or not guilty;
- b) a crime that is being investigated;
- c) information used in a court of law to decide whether the accused is guilty or not;
- d) evidence that shows conclusively whether something is a fact or not;
- e) the decision: guilty or not guilty;
- f) the person who leads a trial and decides on the sentence;
- g) group of twelve citizens who decide whether the accused is guilty or not
- h) to do something illegal;
- i) to say someone is guilty;
- j) to bring someone to court;
- k) to swear in court that that one is guilty or otherwise;
- l) to argue for someone in a trial;
- m) to argue against someone in a trial;
- n) to decide whether someone is guilty or not;
- o) what the judge does after a verdict of guilty;
- p) to decide in court that someone is not guilty;
- q) to decide in court that someone is guilty;
- r) to punish someone by making them pay;
- s) to punish someone by putting them in prison;
- t) to set someone free after a prison sentence;
- u) to have case judged in court.

Words and word combinations for ideas:

to commit a crime or an offence; to charge someone with; to accuse someone of a crime; trial; case; jury; judge; to be tried; to release someone from prison/jail; to send someone to prison; evidence; proof; verdict; to plead guilty; to plead not guilty; to defend someone in court; to prosecute someone in court; to fine someone; to acquit an accused person of a charge; to convict someone; to pass verdict on an accused person; to sentence someone to a punishment

*EX. 2. Put the right form of either **rob** or **steal** in the sentences below:*

1. Last night an armed gang _____ the post

office. They _____ \$2000.

2. My handbag _____ at the

theatre yesterday.

3. Every year large numbers of banks _____ .

4. Jane _____ of the opportunity to stand for president.

EX. 3. Fill the blanks in the paragraph below with suitable words:

One of the two accused men _____ at yesterday's trial. Although his lawyer _____ him very well, he was still found guilty by the jury. The judge _____ him to two years in prison. He'll probably _____ after eighteen months. The other accused man was luckier. He _____ and left the courtroom smiling broadly.

EX. 4. Complete the table:

crime	criminal	verb	definition
Murder			
Shoplifting			
Burglary			
Smuggling			
Arson			
Kidnapping			
Terrorism			
Blackmail			
Drug-trafficking			
Forgery			
Assault			
Pickpocketing			
Mugging			
Theft			
Hi-jacking			
Bribery			
Rape			
Flogging			

Treason			
Sedition			
Battery			
Larceny			
Trespass			

EX. 5. Put the following events in the story of Charles Mercer in the order in which they are most likely to have happened.

- | | |
|-----------------------------|---|
| 1. First, _____ | a) the jury reached a verdict. |
| 2. Later _____ | b) he was arrested by the police. |
| 3. Next, _____ | c) the jury considered the evidence. |
| 4. So then _____ | d) he was sent to prison. |
| 5. Now _____ | e) Charles Mercer committed a crime. |
| 6. And _____ | f) the police charged him. |
| 7. Then _____ | g) he was released from prison. |
| 8. Then _____ | h) the judge passed sentence. |
| 9. After that _____ | i) he went on trial. |
| 10. So _____ | j) the prosecution called witnesses. |
| 11. A few years later _____ | k) the defence said that he was not a criminal. |

EX. 6. Put each of the following words in its correct place in the passage below.

theft *pleaded* *fingerprints* *found* *cell* *evidence*
arrest *oath* *investigate* *sentence* *charge*
detained
fine *court* *magistrate* *handcuff* *witnesses*

A policeman was sent to _____ the disappearance of some property from a hotel. When he arrived, he found that the hotel staff had caught a boy in one of the rooms with a camera and some cash. When the policeman tried to _____ the boy, he became violent and the policeman had to _____ him. At the police station the boy could not give a satisfactory explanation for his actions and the police decided to _____ him with the _____ of the camera and cash. They took his _____, locked him in a _____, and _____ him overnight. The

next morning he appeared in _____ before the _____ .

He took an _____ and _____ not guilty.

Two _____ the owner of the property and a member of the hotel staff, gave _____ . After both sides of the

case had been heard the boy was _____ guilty.

He had to pay a _____ of \$250 and he was given a _____ of three months in prison suspended for two years.

EX. 7. Instructions as above.

detective plain clothes jury warders coroner
solicitor trial verdict inquest death penalty

a) If you want legal advice in Britain, you go to a _____ .

b) At the end of the _____ , the judge ordered the twelve men and women of the _____ to retire and consider their _____ , guilty or not guilty.

c) Men or women who look after prisoners in prison are called prison officers or _____ .

d) If a person dies in unusual circumstances, an _____ is held at a special court, and the "judge" is called a _____ .

e) A policeman who investigates serious crime is called a _____ . He wears _____ , not uniform.

f) In some countries murderers are executed but other countries have abolished

the _____ .

EX. 8. Fill in the gaps with suitable prepositions.

- a) He's being kept _____ custody.
- b) He was sentenced _____ five years.
- c) She got a sentence _____ six months.
- d) He was accused _____ murder.
- e) She's been charged _____ theft.
- f) He appeared _____ court _____ handcuffs.
- g) They were brought _____ the judge.
- h) The jury reached a verdict _____ guilty.

EX. 9. Match each person with the correct definition.

an arsonist, a shoplifter, a mugger, an offender, a vandal, a burglar, a murderer, a kidnapper, a pickpocket, an accomplice, a drug dealer, a spy, a terrorist, an assassin, a hooligan, a stowaway, a thief, a hijacker, a forger, a robber, a smuggler, a traitor, a gangster, a deserter, a bigamist

- 1) attacks and robs people, often in the street
- 2) sets fire to property illegally
- 3) is anyone who breaks the law
- 4) breaks into houses or other buildings to steal
- 5) steals from shops while acting as an ordinary customer
- 6) kills someone
- 7) deliberately causes damage to property
- 8) steals things from people's pockets in crowded places
- 9) gets secret information from another country
- 10) buys and sells drugs illegally
- 11) takes away people by force and demands money for their return
- 12) helps a criminal in a criminal act
- 13) uses violence for political reasons
- 14) causes damage or disturbance in public places
- 15) hides on a ship or plane to get a free journey
- 16) takes control of a plane by force and makes the pilot change the course
- 17) murders for political reasons or reward

- 18)is someone who steals
- 19)makes counterfeit (false) money or signatures
- 20)is a member of a criminal group
- 21)steals money etc. by force from people or places
- 22)marries illegally, being married already
- 23)is a soldier who runs away from the army
- 24)brings goods into a country illegally without paying tax
- 25)betrays his or her country to another state

EX. 10. Put each of the following words or phrases in its correct place below.

<i>wrongdoer</i>	<i>deterrent</i>	<i>law-abiding</i>	<i>death penalty</i>
<i>misdeeds</i>	<i>reform</i>	<i>crime doesn't pay</i>	<i>corporal punishment</i>
	<i>barbaric</i>	<i>retribution</i>	<i>humane rehabilitate</i>

THE PURPOSE OF STATE PUNISHMENT

What is the purpose of punishment? One purpose is obviously to _____

the offender, to correct the offender's moral attitudes and anti-social behaviour

and to _____ him or her, which means to assist the

offender to return to normal life as a useful member of the community.

Punishment can also be seen as a _____ ,

because it warns other people of what will happen if they are tempted to break

the law and to prevent them from doing so. However, a third purpose of

punishment lies, perhaps, in society's desire for _____ ,

which basically means revenge. In other words, don't we feel that a _____

should suffer for his _____? The form of punishment should

also be considered. On the one hand some believe that we should "make the

punishment fit the crime". Those who steal from others should be deprived of

their own property to ensure that criminals are left in no doubt that

" _____ ". For those who attack others

_____ should be used. Murderers should be subject to the principle "an eye for an eye and a tooth for a tooth" and automatically receive the _____. On the other hand, it is said that such views are unreasonable, cruel and _____ and that we should show a more _____ attitude to punishment and try to understand why a person commits a crime and how society has failed to enable him to live a respectable, _____ life.

EX. 11. Fill each of the blanks in the passage with one suitable word.

WHEN IS A THIEF NOT A THIEF?

The impression that more women shoplift than men may be _____ to publicity. As a recent report on shoplifting _____ out: "Every week, newspapers _____ the conviction of some middle-aged woman of blameless _____ who has stolen for quite unexplained motives, some objects of _____ value which she could easily have _____ to buy. Most psychiatrists have at some _____ seen patients who were _____ of this sort of theft.

This _____ the question of _____ the middle class have a better chance of getting _____ shoplifting charges than the working class. The shops insist that they are _____ solely with whether customers have _____ for the goods: their accent, class or ability to browbeat, is _____.

But, _____ charged, the middle class are undoubtedly in a better _____. They are more likely to have, or call in, a solicitor; and they are financially _____ to risk paying legal costs. The solicitor - or friends or relations - may _____ a psychologist assessment. And a "respectable" first-time _____, backed by a psychological explanation of a momentary aberration, and defended by a solicitor, surely goes into the dock with more chance of acquittal than someone _____ these attributes.

EX. 12. 1. Put each of the following words or phrases in its correct place below.

walkie-talkie join plain clothes detective
police force rank policeman uniform

POLICE

Alan now is old enough and tall enough to _____ the _____ . At first, of course, he'll be an ordinary _____ of the lowest _____. He'll wear a _____ and go out in the streets keeping in touch with the police station with his _____. Then he'd like to be a _____ in _____ investigating serious crime.

12. 2. Instructions as above.

guards tap armoured vehicles bullet-proof
kidnappers couriers security firm private detectives
bug

SECURITY WORK

I run a _____ which offers a complete range of security devices. We have _____ with special _____ windows to transport money and other valuable items. We can supply trained _____ to protect exhibits at art shows and jewellery displays. We can advise you if you think someone is trying to _____ your phone or _____ your private conversations at home or in the office with hidden microphones. We have ex-policemen whom you can hire as _____ and special _____ to deliver your valuable parcels anywhere in the world. We can protect you and your children against possible _____ .

EX. 13. Complete the text using the words and phrases given.

<i>reach a verdict</i>	<i>judge</i>	<i>Crown</i>	<i>represented</i>
<i>charged</i>	<i>witnesses</i>	<i>determine</i>	<i>stand</i>
<i>under oath</i>	<i>plead</i>	<i>prison</i>	<i>defendant</i>
<i>pass sentence</i>	<i>offence</i>	<i>convicted</i>	<i>conviction</i>
<i>dock</i>	<i>acquitted</i>	<i>committing</i>	<i>summed up</i>
<i>discretion</i>			

CRIMINAL TRIALS IN BRITAIN

Under the British judicial system, if a person is _____ with a serious offence, he/she has to _____ trial. This means he/she has to appear in court before a(n) _____ and jury. The role of the jury is to _____ whether the accused is guilty or not guilty. During the trial, the accused, also known as the _____, has the right to be _____

by a lawyer, the Counsel for the Defence, who must present the best possible case for the accused. Another lawyer, the Counsel for the Prosecution, acting for the _____ (as the State is known during legal proceedings in Britain) is there to try to secure a(n) _____ .

At the start of the trial, the accused stands in the _____ and is asked "How do you _____ ?" If the plea is "Not guilty", the trial proceeds. _____ are called to give evidence and are cross-examined by the lawyers. All evidence is given _____ . When all the evidence has been heard, and the judge has _____, the jury retires to _____ .

At least ten of the jury must be of the same opinion. If the jury finds the accused not guilty, he/she is _____ . If, on the other hand, the accused is found guilty, it is up to the judge to _____ .

Depending on the seriousness of the _____ this may be a fine, a suspended sentence or a(n) _____ term. British courts do not sentence people to death. All judges exercise _____ in the severity of the sentences they pass, but it is not unknown for a judge to make an example of the _____ prisoner in order to deter others from _____ similar offences.

EX. 14. Fill in the missing words in the sentences below. Choose from the following:

<i>arrested</i>	<i>solicitor</i>	<i>verdict</i>	<i>fine</i>	<i>juvenile</i>
<i>delinquent</i>	<i>bail</i>	<i>prosecution</i>	<i>commit</i>	<i>shoplifting</i>

remanded in custody *evidence* *proof* *charged* *sentence*
Magistrate's Court *probation* *embezzlement* *defence* *barrister*
witness *testimony* *arson* *burglary* *imprisonment*
Crown Court

1. The number of young people who _____ crimes has risen sharply in recent years.
2. Another house was broken into last week. This is the third _____ in the area in the past month.
3. The judge _____ him to seven years _____ for armed robbery.
4. After twelve hours, the jury finally reached its _____ : the prisoner was guilty.
5. Although the police suspected that he had been involved in the robbery, since they had no definite _____ there was nothing they could do about it.
6. He parked his car in the wrong place and had to pay a parking _____ .
7. This is the fourth fire in the area recently. The police suspect _____ .
8. The shop decided to install closed-circuit television in an effort to combat the problem of _____ .
9. He was _____ by the police outside a pub in Soho and _____ with murder.
10. There are two criminal courts in Britain - the _____ for minor

offences and the _____ for more serious ones.

11.A _____ is a young person who breaks the law.

12.A _____ is someone who sees a crime being committed.

13.The lawyer who prepares the case for his or her client prior to appearing in court is called a _____. The lawyer who actually presents the case is called a _____.

14.The sum of money left with a court of law so that a prisoner may be set free until his or her trial comes up is called _____.

15.The bank manager admitted taking \$250.000 of the bank's money during the previous five years. He was found guilty of _____.

16.The witness held the Bible in her right hand and said: "I swear by Almighty God that the _____ I shall give shall be the truth, the whole truth, and nothing but the truth."

17.The formal statement made by a witness in court is called a _____.

18.If a person is _____, this means that he or she is put in prison before his or her trial comes up.

19.Since it was his first offence, he was not sent to prison but put on _____ for 6 months.

20.At a trial, the barrister who speaks for the accused is called the Counsel for the _____, while the barrister who speaks against him is called the Counsel for the _____.

EX. 15. Give examples of the offences listed below:

blackmail, kidnapping, arson, trespassing, manslaughter, smuggling, forgery, bigamy, baby- or wife-battering, conspiracy, fraud, mugging, drug peddling, espionage (spying), treason, shoplifting, treason, hijacking, obscenity, bribery and corruption, petty theft

Which of the above would or could involve the following?

counterfeit money, pornography, hostages, a ransom, heroin, a traitor, state secrets, contraband, a store detective

EX. 16. What are the crimes described in these situations?

1. He threatened to send the love letters to her husband unless she gave him \$500.
2. The telephone box had been smashed and there was graffiti all over the walls.
3. An old man has been attacked and robbed in a city street. He is recovering in hospital.
4. Department stores lose millions of pounds each year through goods being stolen off the shelves.
5. Thieves broke into the house while the family was away on holiday.
6. The young woman was sexually attacked as she walked across the dark park late at night.
7. He watched with satisfaction as the fire he lit burnt down the factory "That'll make them wish they'd never given me the sack," he thought.
8. It was a perfect copy. It was so good, in fact, that it could even fool an expert.
9. The bank believed her to be trustworthy. They had no reason to suspect that she had transferred thousands of pounds to false accounts.
10. "If you want to see your child again, put \$50,000 in an old suitcase and wait for further instructions."
11. George gave the man \$50 in return for a small packet of heroin.
12. It was a beautiful day. The sun was shining and people were sitting outside the cafe enjoying the sunshine. Then the bomb went off.
13. "If only I hadn't brought these watches through customs," she thought as she sat crying in the police station.

EX. 17. Replace the words in brackets with a phrasal verb from the box. Make any other changes, which are necessary.

<i>find out</i>	<i>look into</i>	<i>run over</i>	<i>go off</i>	<i>get away</i>
<i>break down</i>	<i>hold up</i>	<i>be up to</i>	<i>break into</i>	<i>make for</i>
<i>let off</i>	<i>make up</i>	<i>take in</i>	<i>give away</i>	

The police are (investigating) an incident, which took place this afternoon. Two masked men (robbed) a security van outside the national bank and (escaped) with half

a million pounds. Their getaway car (knocked down) one of the guards as they (went towards) the motorway.

She had (invented) a wonderful alibi and managed to (make everyone believe her lies). The police only (discovered) the truth because a jealous lover (betrayed her) to the police.

The children are suspiciously quiet. I wonder what they are (doing). I think I'll go and have a look.

He (lost control of his emotions) and cried. He confessed everything to his father. His father (didn't punish him) because he believed the boy was genuinely sorry.

The alarm bell (started to ring) when the gang tried to (enter) the bank.

EX. 18. Make all the changes and additions necessary to produce sentences from the following sets of words and phrases. Make sure that you choose the correct prepositions to go with each verb.

- 1 Her employer/accuse/her/steal/money.
- 2 The lock/prevent/burglar/break into/house.
- 3 The jury/convict him/murder/his wife.
- 4 The shopkeeper/forgive/child/steal/sweets.
- 5 His son/be/arrest/sell drugs/to teenagers.
- 6 The judge/congratulate/police/catch/gang.

EX.19. Here is the story of a very unfortunate, irresponsible man called Mr N.E. Body. Imagine that he was stopped by the police at each and every point of the drama. Read about what happened and, after each piece of information you receive, decide what punishment he deserves. Here are some of the sentences you might wish to hand out.

You might feel the death penalty is in order, or life imprisonment, even solitary confinement. You could put him on probation, give him community service or impose a fine - anything from \$10 to \$1,000. You might consider corporal punishment (a short, sharp shock), a shortish prison sentence or, of course, you could make that a suspended sentence. You might make him pay compensation, or would you like to see him banned from driving? No? Well, his licence could be endorsed. Or would you dismiss the case, find him not guilty of any crime, acquit him, find the case not proved?

1. Mr Body drank five pints of beer and five single whiskies in a pub, got into his car and drove away.
2. He did not drive dangerously but exceeded the speed limit as he wanted to catch up with a friend who had left his wallet in the pub.

3. As he was driving along, a little girl ran into the road and he knocked her down
4. There was no way he could have stopped, drunk or sober.
5. The little girl suffered only bruises and superficial injuries.
6. Mr Body's wife had left him two days before.
7. Six months later, it was clear that the little girl was to suffer from after-effects of the accident and would stutter for many years.
8. Mr Body had never previously received any summons for traffic offences.
9. The little girl admitted that it was all her fault.
10. The passenger in Mr Body's car was killed outright as he went through the windscreen.

EX. 20. Give the name of the defined law breaker:

- | | |
|---|-------------------------|
| a) steals | a _ _ _ _ _ |
| b) steals purses and wallets | a _ _ _ k _ _ _ _ _ _ _ |
| c) gets money by threatening to disclose personal information | a _ _ _ _ _ |
| | k _ _ _ _ _ _ _ |
| d) seizes aeroplanes | a _ _ _ j _ _ _ _ _ _ |
| e) takes things from a shop without paying | a _ _ _ _ _ i _ _ _ _ _ |
| f) kills people | a _ _ r _ _ _ _ _ _ |
| g) steals from houses or offices | a _ _ _ g _ _ _ _ |
| h) steals from banks or trains | a _ _ b _ _ _ _ |
| i) takes people hostage for a ransom | a _ _ _ n _ _ _ _ _ _ |
| j) steals government secrets | a _ _ _ _ |
| k) wilfully destroys property | a v _ _ _ _ _ _ |
| l) marries illegally while being married already | a b _ _ _ _ _ _ _ _ |

EX. 21. Complete the sentences.

1. This was one of the few crimes he did not ...
2. The ... are still holding twelve people hostage on the plane.
3. The man jumped out of the window and committed ...
4. The police caught the ... red-handed.
5. He was arrested for trying to pass ... notes at the bank.
6. ... consistently flout import regulations.
7. The police who were ... the crime could find no clues at all.
8. It is the responsibility of the police to ... the law, not to take it in their own hands.
9. After the accident the policeman asked if there had been any ...
10. The ... sentenced the accused to 15 years in prison.
11. I refuse to say anything unless I am allowed to speak to my ...
12. I should like to call two ... who can testify on my client's behalf.
13. The case against Mary Wrongdoer was dismissed for lack of ...
14. At the end of the trial he was ... of murder.

15. The judge will hear the next ... after lunch.
16. The high court judge will pass ... next week.
17. Mr Topsy was ... twenty pounds for drinking and driving.
18. After considering the case, the judge put the young offender ... for two years.
19. As it was her first offence, the judge gave her a ... sentence.
20. The accused man was able to prove his innocence at the trial and was ...
21. The judge recommended more humane forms of punishment for juvenile ...
22. The ... threatened to send the photos to the police.
23. My wallet has been ...
24. The spy was shot for ...
25. Wilson had made up an ... for the time of the robbery.

EX. 22. If you commit a crime you may be:

- accused
- arrested
- charged
- convicted
- interrogated
- paroled
- sent to prison
- suspected
- tried

Put these actions in the correct order.

EX. 23. Match each punishment with its description.

- | | |
|--------------------------|--|
| 1) capital punishment | a) a period of time in jail |
| 2) corporal punishment | b) being made to do hard work while in prison |
| 3) eviction | c) death |
| 4) a heavy fine | d) a punishment imposed only if you commit a further crime |
| 5) internment | e) a large sum of money to pay |
| 6) penal servitude | f) whipping or beating |
| 7) a prison sentence | g) regular meetings with a social worker |
| 8) probation | h) removing (a person) from a house or land by law |
| 9) solitary confinement | i) limiting the freedom of movement esp. for political reasons |
| 10) a suspended sentence | j) being imprisoned completely alone |

EX. 24. Use a word in each gap to complete the passage.

THE LONG ARM OF THE LAW

Last Sunday Harry Brown was (1)_____ by the police in South-East London when he was caught driving a stolen car after a high-(2)_____ chase involving three police patrol cars. He was (3)_____ to Wandsworth Police Station and formally (4)_____ with reckless driving and taking a vehicle without the owner's consent. He appeared in (5)_____ the following Wednesday and (6)_____ not guilty.

During the brief (7)_____, when he was defended by a London (8)_____ specially engaged by a local firm, a great deal of (9)_____ was produced by the (10)_____ which showed that Harry had (11)_____ with a total lack of consideration (12)_____ the safety of the public. It was also clear that he had been drinking, but fortunately for him, his roadside (13)_____ test had shown that he was just (14)_____ the (15)_____ limit of 80 mg of alcohol per litre of (16)_____. The twelve (17)_____ of the (18)_____ listened patiently to the principal (19)_____, a local housewife who had seen Harry driving the car (20)_____ 70 m.p.h. down the High Street, and then retired to consider their (21)_____. After a very short time they returned to the (22)_____ and announced that they had (23)_____ him guilty as (24)_____.

In his concluding remarks, the (25)_____ said: "I have (26)_____ choice but to (27)_____ you to 18 months in (28)_____. Not (29)_____ is this a very serious (30)_____, but it is also not your first. You have in fact three previous (31)_____ involving motor cars. You seem to take pleasure in breaking the

(32)_____, but I hope the time you spend inside will teach you a lesson. I am also (33)_____ you from driving (34)_____ three years, after which you will have to (35)_____ another (36)_____ test before you are allowed to drive on public roads.”

Speaking to reporters outside the courthouse afterwards, Harry’s (37)_____, from the firm of Cheetham, Sue, Grabbit and Runne, said that in the circumstances his (38)_____ could not really have expected any better treatment and that he very much (39)_____ the danger he had (40)_____ to the public.

<i>arrested</i>	<i>charged</i>	<i>for</i>	<i>members</i>	<i>solicitor</i>
<i>at</i>	<i>charged</i>	<i>for</i>	<i>no</i>	<i>speed</i>
<i>barrister</i>	<i>client</i>	<i>found</i>	<i>offence</i>	
	<i>suspending</i>			
<i>behaved</i>	<i>convictions</i>	<i>jail</i>	<i>only</i>	<i>take</i>
<i>below</i>	<i>court</i>	<i>judge</i>	<i>pleaded</i>	<i>taken</i>
<i>blood</i>	<i>courtroom</i>	<i>jury</i>	<i>prosecution</i>	<i>trial</i>
<i>breath</i>	<i>driving</i>	<i>law</i>	<i>regretted</i>	<i>verdict</i>
<i>caused</i>	<i>evidence</i>	<i>legal</i>	<i>sentence</i>	<i>witness</i>

Ex. 25. Read the article about an accident.

Dorking police are still looking for the driver of a Ford Transit van, which failed to stop after causing an accident on the A24 between Beare Green and Capel. The accident involved three other cars, a Cortina, an Austin Princess and an MGB. The driver of the Cortina, 18-year-old Nicola Stacey from Dorking, was taken to hospital for an emergency operation to save her eyesight.

Dr James, driver of the Austin Princess, was on his way to see a patient in Capel. Said Dr James, "I was keeping my distance behind the Cortina when I saw a van coming very fast in the opposite direction on the wrong side of the road. The Cortina braked and swerved to avoid it, but the van must have hit its front wing because it overturned and landed in the ditch."

Dr James said he called an ambulance and Miss Stacey was taken to Dorking Central Hospital for emergency treatment. No one else was hurt.

Miss Heather Innes, driver of the MGB, said, "When I saw the van overtake me and the other car coming, I swerved to the left to get out of the way. I ran into the hedge but luckily we didn't hurt ourselves. Miss Innes and her companion, Mr Peter

Walford, were on their way to Heathrow Airport. Said Miss Innes, "The worst part of it was that I missed my plane."

25.1. Match the two halves of the sentences to make true statements about the accident, like this: A-3.

- A The van caused an accident
- B The Cortina swerved to avoid the van
- C The doctor looked at the condition of the girl
- D Heather Innes stopped to act as a witness at the scene of the accident
- E Heather Innes saw the van hit the other car

- 1 and so she swerved to get out of the way
- 2 and he immediately called for an ambulance
- 3 and then drove on without stopping
- 4 and so missed her plane from Heathrow Airport
- 5 and then overturned and landed in a ditch

25.2. Imagine you are a police officer. You have found the Transit van and you are interviewing the driver, Dave Starr. With a partner, ask and answer these questions:

- Where were you going?
- How fast were you driving?
- Why did you overtake?
- Didn't you see the Cortina coming?

Ask any other questions that you think are important.

EX. 26. Read the newspaper article and answer the questions.

A jury of seven men and five women said today that 78-year-old Mr Andrew Mullins was guilty of murdering his 80-year-old wife, Edith. Six weeks ago, Mullins went on trial for murder.

During the trial Mullins said that he had killed his wife because she was very ill and had lost her mind. He said, "The woman I killed was not my wife. It was a body in pain and a mind with no memory."

He committed the crime on the night of August 10th in their home in the small town of Palmston Beach. That morning his wife had looked at him with empty eyes and asked, "Who are you?" That evening she was in terrible pain and kept saying, "Help me, help me." So as she slept on the sofa that night, Mullins put a gun against her head and shot her. Then he telephoned the police and told them what he had done. The police came to the house and arrested him. Two days later he was charged with murder.

During the six-week trial, there were many witnesses who gave evidence. The

prosecution called witnesses who said that Mrs Mullins liked to go out, that she smiled and wore make-up. The defence called doctors who said that Mrs Mullins was in great pain, and friends who said that Mr Mullins loved his wife very much. But in the end the jury reached a verdict of guilty. They agreed with the prosecutor. It was murder.

Tomorrow the judge will pass sentence. The law says that he must send Mullins to prison for at least twenty-five years. That means he will not be released from prison until he is 103 years old.

There are many people in Palmston Beach tonight who think the law is wrong. Mullins is not a criminal. He is not a dangerous man. Perhaps he is just a man who loved his wife too much.

Do you think Mullins should go to prison?

Ask the questions to the following answers.

1. 78.
2. Six weeks ago.
3. He shot her.
4. Acquaintances, doctors and friends.
5. At least twenty-five years.
6. When he is 103 years old.

EX. 27. Read this newspaper article, and then complete the sentences.

MURDERER'S APPEAL REJECTED

The Court of Appeal yesterday rejected the appeal of Arthur James Hall for his conviction of murder, and the sentence of life imprisonment stands. Hall, 35, was found guilty of murdering his wife at his trial at Birmingham Crown Court in November last year. In his summing up, Lord Chief Justice Ballard said that he and his two colleagues considered that no new evidence had come to light, which questioned the decision of the lower court.

Hall was arrested in London in April last year after a massive police hunt. He was charged with the murder, and from his first appearance at Aston magistrates' court, has strongly denied killing his wife, always claiming that it was her mystery lover. Unfortunately for Hall, no evidence that his wife actually had a lover has ever been found.

Hall's solicitors said: "We will not let the matter rest here. We are going to apply for permission to take the case before the House of Lords."

The sentences below tell you what happens to a suspected criminal in Britain. Use the newspaper article to help you to complete them.

- 1) The police _____ the suspect.

- 2) The police _____ the suspect with the crime.
- 3) The suspect goes before the _____ court.
- 4) He is legally represented by a _____ .
- 5) If there is sufficient evidence, the suspect is sent for _____ at the nearest _____ court.
- 6) The suspect is tried and, if he is found guilty, the judge passes _____ on him.
- 7) Under certain circumstances (if the trial was not conducted properly, or if new evidence appears), the suspect can appear before the Court of _____.
- 8) In very rare situations an appeal may be made to the highest court in the land, the _____ .

EX. 28. Read the following article fairly quickly.

SEVEN BANKS A DAY ARE ROBBED IN LOS ANGELES

October 4, 1979, is a day of fond memory for FBI agents in LA. It's the last day that the city did not have a bank robbery.

Last year there were 1,844 bank robberies in the city and its suburbs, an average of about seven every business day, and a quarter of all the bank robberies committed in the US. The total haul was around four million dollars.

There are several reasons why Los Angeles heads the bank-robbery league - why ahead of San Francisco and New York. The place has an awful lot of banks - 3,300 - and many stay open until 5 or 6 in the evening and at weekends. They are also very informal. "You need a warm, inviting place to do business," says Stephen Ward. Bank robbers are particularly appreciative.

The robberies are usually quite genteel, with none of the machine-gun violence of the old movies. Usually, the robber passes a stick-up note to a teller, pockets the cash while the surveillance cameras click away, then makes a getaway via the nearest freeway. Tellers have orders to hand over the money immediately. "The banks believe, quite rightly, that you can replace money but you can't replace lives," says one FBI man.

Most of the robbers are drug-addicts. But they also include "pregnant women,

one-legged men, husband-and-wife and father-and-son teams, according to Joseph Chefalo, who heads the FBI's bank-robbery squad.

The FBI is particularly keen to find the "Yankee Bandit", who may have earned a place in the Guinness Book of Records with 65 bank hold-ups. Before making his getaway, he always doffs his Yankee baseball cap, with a smile in the direction of the cameras. For a while, the FBI thought he had retired with his haul of 155,000 dollars. He was not seen over the Christmas holidays. But when the first working day of the new year started off with 14 robberies, there he was, smiling for the cameras, Yankee cap in one hand, the cash in the other.

Answer the questions:

1. How does LA compare with other American cities as regards bank robberies?
2. What was special about October, 4th, 1979?
3. Are there any reasons why LA has so many bank robberies?
4. What makes the Yankee bandit exceptional?
5. Why do most Los Angeles bank robbers rob banks?
6. Why is the FBI particularly keen to find the "Yankee bandit"?
7. What would be written on a stick-up note?
8. What would you do if you were: a) a bank teller; b) a customer during a bank raid?

EX. 29. Read through the passage and answer the questions.

HOISTING

"I just couldn't do it. I don't know what it is. It's not embarrassment. You see, you are putting your head in a noose; that's what it seems to me." Derek, an armed robber with a long record of bank jobs, was talking about hoisting. "No, I just couldn't do it. I mean just going in there." He paused to try to find a more exact way of fixing his antipathy. "I tell you what. It's too blatant for my liking."

It seemed a funny way to put it. Pushing a couple of ties in your pocket at a shop was hardly the last word in extroversion, and even on the discreet side when compared to all that firing of shotguns and vaulting over counters which made up the typical bank raid.

But my ideas of shop-lifting were still bound up with teenage memories of nicking packets of chewing gum from the local newsagents. A lot of guilt and not much loot. After a few conversations with professional hoisters, I realised that "blatant" was just about right.

Nobody took a couple of ties: they took the whole rack. The first member of the gang would walk in nice and purposefully. Their job was to set up the goods: perhaps put an elastic band round the ends of a few dozen silk scarves; move the valuable pieces of jewellery nearer the edge of the counter; slide the ties on the rack into a compact bunch. Then, while somebody else diverts the assistant or provides some sort of masking, the third member lifts the lot.

If the walk to the door is a little long, then there may be someone else to take over for the last stretch. No one is in possession for more than a few seconds, and there's always a couple of spare bodies to obstruct anyone who seems to be getting too near the carrier. Store detectives who move forward with well-founded suspicions may still find themselves clutching empty air.

Store detectives watch for three main give-aways: any sort of loitering which looks different from the usual hanging around and dithering that characterises the real customer; any covert contact between individuals who have shown no other sign of knowing each other; any over-friendliness towards sales staff which might be acting as a distraction. "There's one other little angle," said one detective. "I often pop round the back stairs; that's where you'll occasionally find one of them: trying to relax and get themselves in the right mood before starting the next job."

29.1. Answer the questions.

1. What is hoisting?
2. How did the writer acquire his information about hoisting?
3. What did he learn about techniques of hoisting?

29.2. Complete these statements by choosing the answer, which you think, fits best.

1. The bank robber wouldn't consider shop-lifting because
 - a) it was beneath his dignity
 - b) the penalties were too high
 - c) it wasn't challenging enough
 - d) the risks were too great
2. The writer's experience led him to think that most shop-lifters
 - a) were in their teens
 - b) stole modest amounts
 - c) used violent methods
 - d) stole for excitement
3. The role of the first member of the gang is
 - a) convince the staff he's a serious shopper
 - b) remove the goods from the shelves
 - c) establish the easiest goods to steal
 - d) smooth the path for his accomplice
4. Professional shop-lifters avoid being caught in the act by
 - a) passing goods from one to another
 - b) hiding behind ordinary shoppers
 - c) racing for the nearest exit
 - d) concealing goods in ordinary bags

5. Potential shop-lifters may be identified when they
- a) seem unable to decide what to buy
 - b) openly signal to apparent strangers
 - c) are unusually chatty to assistants
 - d) set off towards emergency exits

WHAT DO YOU THINK?

The Reality and the Romance of Crime

Society understands and acknowledges the need to protect itself from lawlessness. Yet there is a certain mystique associated with crime, a fascination that finds crime and the criminal at the same time offensive and appealing. The criminal exudes bravado by his daring escapades; and, if he is successful in his undertaking, there often is secret envy of his success. The ruthless criminal, especially the mobster, projects to the public an image of power and aggressiveness.

Yet the public wants to see the criminal caught and punished. The glamour and violence of the criminal must be countered by justice. The criminal is, for the public, an anti-hero. He is not heroic because his deeds are not noble. But he stands above the crowd by his daring, command, and self-assurance.

Nowhere has the mystique of crime been more dramatically portrayed than in motion pictures. The names of some of Hollywood's anti-heroes are legendary: James Cagney, Edward G. Robinson, George Raft, Humphrey Bogart, John Garfield, Sidney Greenstreet, Peter Lorre, and more recently Charles Bronson and Clint Eastwood. Sometimes they were the "bad guys," sometimes the good. The dozens of movies that portrayed and sometimes glorified criminal behaviour included 'Al Capone', 'Scarface', 'The St. Valentine's Day Massacre', 'The Roaring Twenties', 'Public Enemy', 'High Sierra', 'The Last Gangster', 'Murder, Inc.', 'Ocean's Eleven', 'The Petrified Forest', 'Bonnie and Clyde', 'The Outlaw Josey Wales', 'The Enforcer', the three 'Godfather' films, 'GoodFellas', and 'Bugsy'.

Real crimes with real consequences are portrayed almost daily in television. The public is aware that crime is in every city and town and in nearly every neighbourhood. Fear has replaced fascination because everyone is a potential victim. Now the antihero is no longer the criminal: He is the loner who seeks justice, the man who defies the complexities of the criminal law system to inflict instant punishment on the offender. The antihero of today's film is more likely to be a "Dirty Harry" played by Eastwood.

Winners and losers.

Not everyone whose case goes before the Supreme Court is a winner. Losers have included prisoners who claimed they were treated unjustly because they were locked up two to a cell built for one. The Supreme Court did not think that "overcrowding" was "cruel and unusual punishment", which the Constitution prohibits.

Another loser was a man who was arrested for calling a policeman a "fascist" and using other abusive language loudly in public. The Supreme Court ruled that freedom of speech does not give people the right to use words that unjustly harm the reputation of another person.

It should also be noted that not all the Americans are satisfied with the Supreme Court decisions. Many Americans believe that the court too often "takes the side of the criminals" in declaring proceedings invalid because an accused person's rights have been violated. Others argue, however, that protecting the innocent is the real intent of these rulings, and that it is better to have a few criminals go free than to have one innocent person be jailed.

Coping with crime

In the USA concern about crime has led to special government programmes to stop crimes and to help prisoners lead useful lives after their prison sentences end.

In one programme young people are brought into the prisons to talk with prisoners. The idea is that prisoners can do more than any other people to stop young people from turning to crime. The experience of being inside a prison also might have a crime-deterrent effect on the young people.

In some programmes, prisoners learn a useful trade so they won't return to crime when they are released.

Gun control

Many lawmakers favour stricter gun control laws as a method of curbing crime. Americans now own 65 million pistols and revolvers, two handguns for every three households. Even sophisticated rapid-fire combat weapons are available. Proponents of gun control are pressing the government to at least require registration of all handguns and to require background checks on all potential handgun buyers to ensure that they do not have a criminal record. Some opponents of handgun favour a complete ban on their sale and possession. All the same, the lobbies against gun control are very influential. Many Americans fear that gun control laws will prevent law-abiding citizens from being able to protect their homes.

Self-defence

Lacking confidence in the ability of the courts, the police, and legislators to deal swiftly with the problem of crime, many Americans look for ways to protect themselves from attacks and burglaries. Refusing to be victimised, some people are willing to break the law in order to defend themselves. When New York subway passenger Bernhard Goetz took the law into his own hands to avoid being the victim of another crime, he was hailed as a hero by most New Yorkers. The incident occurred in 1984 on a subway train when four youths demanded five dollars from him. Goetz, a man with no criminal record who had already been mugged and severely beaten several months earlier, reacted by pulling out a gun and shooting the four youths, all of whom had criminal records, including convictions for armed robbery and burglary. In a three-month trial in 1987 Goetz was finally acquitted of all

but the relatively minor charge of illegally possessing a gun. The public's support for Goetz indicates Americans' frustration with the criminal justice system's inadequacy in protecting individual rights.

Rights of criminal suspects

Courts have the difficult task of striking a balance between the needs of society on the one hand and the rights of the individual on the other the Constitution's guarantee of equal justice under the law for all citizens not only guarantees the individual's rights to freedom and security, but also includes the protection of the rights of criminal suspects. Among these guarantees are the protection from unreasonable search and seizure, the suspect's right to decline to testify against himself/herself, the right to counsel, as well as protection from excessive bail and from cruel and unusual punishment. The Supreme Court has devised several rules to ensure the protection of these rights, which sometimes result in a guilty suspect being released from charges. One of these rules is the controversial exclusionary rule, which excludes from the trial any evidence gained by unlawful search and seizure. The Miranda rule is another controversial Supreme Court decision, which extends the rights of criminal suspects. In the 1966 case, the Court ruled that suspects must be read their legal rights before being questioned by police. They must be told of their right to remain silent and to have an attorney present during questioning. If the police do not inform the criminal suspect of his or her rights, any evidence gained from questioning cannot be used in court.

The death penalty

Responding to public pressure to get tough with criminals, many states have been applying the death penalty as a deterrent to murder. Although few criminals were sentenced to death between 1965 and 1983, there has been a surge in recent years in the number of executions. Supporters of the death penalty argue that it is the only appropriate punishment for sadistic murderers. Opponents of capital punishment hope to see it declared unconstitutional. They claim that there is not enough evidence to prove that murderers are deterred by the threat of execution.

Overcrowded prisons

The prisons in the USA, many of which are old and rundown, must operate above capacity to accommodate the number of inmates. One way to relieve overcrowding is parole, the conditional release of a prisoner before the term of his or her sentence has expired. Nevertheless, many states, responding to public pressure to get tough with criminals, have changed their laws. For example, some states have imposed longer sentences for serious crimes and have restricted parole. The result of heavier prison sentences is that prisons are filling up before state and federal authorities can find the money to build new facilities.

TOPICS FOR DISCUSSION

1. Society can do without lawyers.

2. Mercy killing should not be punished.
3. The main purpose of law is to protect property ownership.
4. Legal cases are best decided by professional judges, not by ordinary members of the public.
5. Criminals need help more than punishment.
6. Imprisonment is revenge, but not rehabilitation.
7. Which do you think is better; judgement by one trained lawyer or judgement by twelve ordinary people?
8. The average prison population in Great Britain has risen almost every year since the Second World War. One possible solution is to continue building new prisons. Is this the only possibility?

GLOSSARY

Accused

A person who is charged with an offence under the criminal law, and who is referred to as the accused (or sometimes the defendant) at a subsequent trial.

Acquittal

The court decision when a person is found not guilty (and therefore acquitted) of a criminal charge at the end of a trial. He or she is then free to leave the court, and in some cases may claim the costs, which have been incurred in the proceedings.

Adjournment

A procedure, which can be employed in many contexts, whereby a meeting or hearing is postponed to a later time. For example, an adjournment of a court case may be over lunch, overnight or longer.

Administrative tribunals

Official bodies which operate locally outside the ordinary system of the law courts and have judicial functions and independent assessors who decide a wide range of civil cases. They are usually more accessible, less formal and less expensive than the conventional courts. They perform an important role in many areas of society, deciding disputes between private citizens (such as employment, and arguments between landlord and tenant); between public authorities and individuals (such as tax matters and social security); and in other areas such as immigration and discrimination (sex and race) cases.

Advocate

The title of a lawyer in Scotland, similar to a barrister in England and Wales, who appears and speaks in court on behalf of clients. Sometimes used for a court lawyer, whether solicitor or barrister, in England and Wales, particularly in the case of solicitor-advocates.

Age of criminal responsibility

Children in Britain under the age of 10 cannot be held responsible in law for their criminal actions, but those between 10 and 14 may be held responsible depending on the circumstances. Children between 10 and 17, who are properly accused of a criminal offence, are tried in special children's courts, known as youth (formerly juvenile) courts in England and Wales, children's panels in Scotland, and juvenile courts in Northern Ireland.

Appeal

The legal procedure whereby a person (the appellant), who has been found guilty of a criminal offence and sentenced, may appeal in certain circumstances against the conviction and/or the sentence to a higher court. In England and Wales, the appeal is usually heard either by the crown court (from the magistrates' court) or by the Court of Appeal (Criminal Division) from the crown court. The ultimate court of appeal is the House of Lords. Appeals may also be made in civil cases to the High Court, the Court of Appeal (Civil Division) and the House of Lords. National appeal courts are used in Scotland and Northern Ireland at the intermediate levels, and the House of Lords may be involved at some of the higher levels. Further appeals may be made to the European Commission of Human Rights and the European Court of Justice (ECJ).

Arrest

The legal procedure when a person either actually committing, or who is suspected of having committed, a crime is taken into custody, usually by the police.

Assault

In the criminal law, an intentional use of violence to cause bodily harm to another person. One of the commonest offences in British criminal statistics.

Attorney

An individual, usually but not always a lawyer, appointed by a will or a person to act for that other person in business, property or legal transactions, particularly when that person is old, incapacitated, or otherwise incapable of managing his or her own affairs.

Attorney-General

The senior law officer of the Crown and government in England and Wales who acts as the government's chief legal adviser and sometimes leads government prosecutions in court. He is usually an MP, a member of the Privy Council, and serves as the head of the bar. He is a political appointment of the sitting government, and is replaced on a change of government. The Lord Advocate in Scotland performs similar, but broader, functions.

Bail

In criminal cases, the release by the magistrates' courts under the rules of the Bail Act 1976 of an accused person awaiting trial. The person is then freed from custody, but may have to satisfy certain conditions of bail, such as reporting at specific times to a police station or surrendering a passport, prior to the eventual trial.

Bailiff

An official in the courts service who delivers writs and summonses (to attend court) on individuals, makes arrests in certain situations, collects fines, and whose office generally implements court decisions.

Bar

The name for the professional legal organisation to which all barristers in England and Wales belong. The Bar Council (the General Council of the Bar) is governing body of the Bar, regulates the activities of barristers and serves as a professional association or trade union for them. There are similar organisations for similar lawyers in Scotland and Northern Ireland.

Barrister

In England and Wales, a lawyer who has been admitted to one of the Inns of Court and 'called to the Bar' as a full member of the legal profession. A barrister is self-employed, advising on legal problems usually provided by solicitors, and arguing cases in the higher criminal and civil courts, based on the brief (or documents on the case) supplied by a solicitor. In general, the public do not have direct access to a barrister but must proceed through a solicitor.

Beat

The popular reference to a policeman regularly patrolling a local neighbourhood on foot (walking the beat) or by bicycle. This form of community policing has been largely replaced by car patrols, but some police forces are increasingly returning to it.

Bench

A collective term referring to the magistrates of judges in a British court of law, who in the past would sit on a raised bench to hear a case, and who are still seated above the main body of the court.

Broadmoor

A state psychiatric institution and special hospital (Broadmoor Hospital) founded in 1873 in Berkshire which treats mentally ill patients. It is better known for its secure residential section where severely disturbed people who have been convicted of criminal offences are kept. There are other similar hospitals in Britain, whose existence is currently under review.

Burglary

In England and Wales, the common offence of entering a building or home as a trespasser (a burglar) with intent to commit a crime, such as theft. If the offender possesses a weapon the offence is aggravated burglary. In Scotland, the equivalent offence is called housebreaking.

Bye-law

A law passed by a local authority such as district council to regulate specific (and usually small-scale) services and activities in its area.

Call to the Bar

The procedure by which a student barrister in England and Wales, after passing professional and academic examinations, is admitted to the Bar and becomes a full member of the profession.

Capital punishment

Historically in Britain, the execution by hanging of a criminal convicted of serious crimes such as murder, also known as the death penalty. The punishment was abolished in 1965, but may still legally be used for treason. It has been replaced by life imprisonment, which normally entails confinement in prison for a minimum of 21 years, although prisoners may be released before this time and some may be retained for longer.

Central Criminal Court

The correct official name of the main criminal court in England, at (and known popularly) the Old Baily, in East London. It is now in practice a crown court centre.

Chief Constable

The senior police officer who is in operational command of one of the 52 police force areas in Britain, and who has organisational, managerial and disciplinary responsibility for the police officers in the area.

Citizens' arrest

A British citizen has an ancient, if largely unused, right to arrest any person who is actually committing, or suspected of having committed, certain serious crimes (such as those, which are punishable by imprisonment).

Civil courts

These courts of law which apply the civil (as opposed to the criminal) law. The lowest in England, Wales and Northern Ireland is the county court, followed by the High Court of Justice, and the Court of Appeal (Civil Division). Scotland has a similar structure but with different names.

Civil law

That branch of the law which deals with property, commerce and companies, wills and succession, the family, contracts and non-criminal wrongful acts done by one person to another, as well as constitutional, administrative and industrial matters. It attempts to settle disputes between people, and between individuals and organisations.

Clerk to the Justice

The professionally qualified lawyer in a magistrates' court who advises the magistrates on points of law and procedure, but who cannot influence or interfere with their decisions. He or she also grants legal aid to applicants.

Committal proceedings

Persons charged with indictable criminal offences must first appear before the magistrates' court, which, on the basis of the evidence in the case, decides whether or not to commit them to the crown court for trial. Sometimes, where crown court trial is deemed either necessary or inevitable, the magistrates hold a brief hearing on documentary evidence only. When there is doubt, or the defence wishes it, the hearing before the magistrates may amount to a full trial.

Community home

A specialist residential centre or house to which a local authority may legally commit young people (under 17) if it considers that they are in moral danger, are beyond the control of their parents or guardians, have been neglected or ill-treated, or have committed criminal offences.

Community service

Convicted criminal offenders over the age 16 (17 in Northern Ireland) who are guilty of an imprisonable offence may, with their consent, be given community service orders by the court instead of a custodial sentence. This means that a number of hours over a period of a year are spent on unpaid work of various kinds in the local community, such as repairing and decorating property.

Constable

The lowest-ranking police officer in the British police forces, being either a male police constable (PC) or a woman police constable (WPC).

Contempt of court

A person who does not obey the instructions or ruling of a judge, such as a journalist refusing to disclose his or her source of information in court when requested, may be charged with contempt of court and imprisoned for a period of time or fined.

Coroner

A local government officer (usually a doctor or lawyer) who administers an office dealing with the registration of deaths in a local area. He or she may also investigate by means of an inquest sudden, suspicious or violent deaths, and tries to determine (sometimes with the help of a jury) the cause of death. A procurator-fiscal does a similar job in Scotland.

County court

The lowest of the civil courts in England, Wales and Northern Ireland, which hears cases involving relatively small amounts of money and is provided over by a county court judge or circuit judge (or a judge who may be responsible for several county courts and visits each in turn).

Court of Appeal

The appeal court covering England and Wales, which is located in London. It is divided into two Divisions (Criminal and Civil) and is the stage of appeal between the lower courts and the House of Lords.

Criminal courts

Courts of law, which apply the criminal (as opposed to the civil) law. In England and Wales the lowest is the magistrates' court, followed by the crown court, and the Court of Appeal (Criminal Division) in London.

Criminal Investigation Department (CID)

A specialist crime investigation unit within the British police forces, such as that of the Metropolitan Police Force in London, which concentrates on serious crime, like murder and major theft cases.

Criminal law

The object of the criminal law is to punish (usually by fine or imprisonment) a person accused and found guilty of a crime. Most British crimes are defined by statute and it is usually the state, which initiates proceedings against an individual or group.

Cross examination

The verbal examination by both defence and prosecution lawyers in criminal and civil trials of a witness giving evidence in the case.

Crown court

The higher criminal court (above the magistrates' court) that handles serious (indictable) offences and holds trials in the larger towns and cities throughout England and Wales. The court is under the control of a judge who may be either a judge of the High Court of Justice or a local judge. A jury of 12 citizens decides the particular case on the facts and the judge pronounces the appropriate sentence.

Crown Prosecution Service (CPS)

Since October 1986, the state CPS, composed of lawyers and headed by the Director of Public Prosecutions (DPP), has been responsible for the independent review and prosecution of most criminal cases instituted by police forces in England and Wales.

Custody

The period when an accused person is not at liberty prior to a criminal trial. This may be in prison, a remand centre or a police station cell. The actual prison sentence, if the person is found guilty, is called a custodial sentence.

Decree absolute

The final order made by a court judge in divorce proceedings, which means that both parties to the dissolved marriage are legally free to marry other person.

Decree nisi

The interim decision made by a court judge in divorce proceedings that a divorce will be finalised at a future date (usually six weeks afterwards) unless anyone can show sufficient reason why the divorce should not proceed.

Director of Public Prosecutions (DPP)

The government-appointed official, who is professionally qualified lawyer and who makes the decision whether or not to bring criminal prosecutions in special, difficult or important cases. He or she also advises central government

departments, chief constables and other groups about legal matters, and heads the Crown Prosecution Service (CPS).

Divisional court

A special branch of the Queen's Bench Division of the High Court in England and Wales which usually hears appeals on matters of law from the magistrates' court and the crown court in criminal law, and sometimes from the county court in civil law. It can also decide legal matters of a constitutional and administrative nature.

Divorce

The dissolution of a marriage by court order, on application by either party. Since 1969, the only ground necessary for divorce is that the marriage has irretrievably broken down, as shown by examples of adultery, separation, desertion or unreasonable behaviour. The court will determine issues like the custody of any children, distribution of property, and the payment of maintenance by one party to another. The divorce decree comes in two stages (decree nisi and decree absolute) after which the parties are free to marry other people.

Fines

The amount of money that a person convicted of a criminal offence is required to pay to the court instead of (or in addition to) imprisonment. The large majority of punishments in Britain courts are fines.

Flying Squad

A well known former section of the CID at New Scotland Yard in the London Metropolitan Police Force, which has now been disbanded. It has been replaced by an 'organised crime' branch, which consists of specialist detectives who investigate large-scale criminal activities.

Guilty

The formal verdict delivered in a criminal court of law by magistrates or the jury against a person who has been found to have committed an offence. The alternative verdict is Not Guilty. An additional decision in Scotland is Not Proven.

Habeas corpus

A legal demand from a judge, having its origin in ancient Habeas Corpus Acts, stipulating that an individual who is being kept in custody or prison must attend the court in order that the judge can decide whether or not that individual was lawfully imprisoned. A defence lawyer may apply to the court for such an order in the hope that a client will be released from custody while the case is further examined.

High Court (of Justice)

The intermediate court in England and Wales between the county court and the Court of Appeal that deals with higher-level civil cases and some criminal ones. It comprises the three sections of the Chancery Division, the Queen's Bench Division and the Family usually sit alone (without a jury) when hearing a case. The central High Court is in London, but it has local branches in the main English and Welsh cities.

Imprisonment

The procedure by which an individual accused and found guilty of certain criminal offences may be sentenced by the court to a period of detention (a custodial sentence) in a prison for varying lengths of time. The precise number of months/years involved will depend on the court, the nature of the offence and the punishment prescribed by statute.

Indictable

The category of serious criminal offences, such as murder, major theft and rape, which can only be tried before a judge and jury in the crown court and not by a magistrates' court.

Infant

An individual in Britain legally remains an infant until the age of 18 and is subject until then to restrictions, such as the inability to own land or to make a valid will.

Inns of Court

The four legal associations (Lincoln's Inn, Inner Temple, Middle Temple and Gray's Inn) and their medieval properties in central London, to one of which all barristers and judges must belong. The Inns contain chambers (from which some 2,000 barristers practise), administrative offices, libraries, eating halls, lawyers' flats and solicitors' firms.

Inquest

An inquiry or investigation by a coroner (and his or her office) in England and Wales (or a procurator-fiscal in Scotland) into the cause of a person's death in a local area, particularly if the death is sudden or there are suspicious circumstances. The coroner may be assisted by a jury in some cases.

Judicial Committee (of the Privy Council)

The influential judicial section of the Privy Council in London which serves as the final court of appeal in criminal and some civil matters from those dependencies and Commonwealth countries which have retained this avenue of appeal from

colonial days. It may also be used to decide cases for a wide range of courts and committees in Britain and overseas.

Judiciary

The third branch of the constitutional division of powers in Britain together with the legislature and the executive. It is mainly composed of the senior judges in the higher courts and is independent of and subordinate to the other two branches. The judges apply the law (including the common law) and interpret Acts of Parliament.

Jury

The 12 citizens (known as jurors) who are selected to give a verdict (guilty or not guilty) according to the evidence which is presented in a criminal case in the crown court in England and Wales. Their decision is usually unanimous, but they are allowed to give a majority verdict, provided that there are not more than two dissenters, that is, 10-2. If a decision is not reached, there must be a retrial. Juries may also be used in certain civil cases, such as those dealing with libel (or defamation of character).

Law Courts

A common name for the Gothic-style court buildings in the Strand, London, which house the Court of Appeal and the central premises of the High Court.

Law lords

Specialist legal peers in the House of Lords who function as the highest court of appeal for civil cases in Britain and for criminal cases in England, Wales and Northern Ireland. They comprise those peers who have held senior judicial office in the court system and may be presided over on occasions by the Lord Chancellor. Normally 3-4 will sit to decide an appeal case.

Law Society

The statutory organisation in central London (but with local branches throughout England and Wales), founded in 1825, which serves as a professional association for most solicitors. It grants practising certificates to solicitors, investigates complaints about their conduct and organises the education and training of student solicitors.

Lawyer

A general name for both solicitors and barristers in England and Wales, and for members of the legal profession elsewhere in Britain.

Leave to appeal

The permission given by a court, after a case has been heard and decided, which enables a dissatisfied party to appeal to the next higher court. Sometimes the

appeal can be against both the decision and the sentence, in other cases only against sentence. At the higher levels leave to appeal must be granted first by the Court of Appeal, then by the House of Lords.

Legal aid

A state system, established in 1949, whereby those people who are unable to afford legal advice and representation in criminal and civil matters because of their low income may have their legal bills paid by the state if they have a suitable case. They are sometimes required to repay the legal aid, depending on whether the court awards them money or property as a result of their case.

Libel

The making of written or published accusations by one person against another which are proved in the High Court to be the false or harmful to an individual's reputation, and for which damages may be awarded.

Long vacation

The annual summer holiday in the law courts, which is normally for three months, from July to September.

Lord Chief Justice (LCJ)

The senior judge who organises the Queen's Bench Division in the High Court of Justice in England and Wales. He ranks second after the Lord Chancellor in the legal hierarchy, sits in the House of Lords as a peer, and is effectively the head of the criminal law system in England and Wales because he presides over the Criminal Division of the Court of Appeal.

Lords Justices of Appeal

The judges who sit and decide cases (criminal and civil) in the Court of Appeal in England and Wales. They are appointed by the Crown on the advice of the Prime Minister and the Master of the Rolls.

Magistrate

A judicial official without professional legal qualifications, also known as a Justice of the Peace (JP), who is appointed by the Lord Chancellor. He or she sits in an unpaid and part-time capacity as a judge in local magistrates' courts in England, Wales and Northern Ireland to decide minor (summary) criminal and some civil cases without a jury.

Magistrates' court

The lowest criminal court in England and Wales in which the majority of all crimes (95 per cent), but chiefly minor or summary cases, are heard and decided

by a bench of local magistrates without a jury. It can also determine some civil cases, such as those dealing with marriage, divorce, licensing and motoring.

Minor

A young person (known also as an infant) under the age of 18, who is legally incapable of certain functions, such as voting, owning property or making a will.

Mitigation

At the end of a criminal trial in which the accused person has been found guilty of an offence, the defence lawyer may attempt to reduce the eventual sentence of the court by offering a speech in mitigation. This will present personal information and other reasons to explain why, for example, the accused should be fined instead of being sent to prison, or suffer no penalty at all.

Mode of trial enquiry

The process whereby the magistrates in a magistrates' court in England and Wales decide whether they have the power to judge a case themselves or whether the matter must be sent to the crown court because of its seriousness and their limited sentencing powers. In certain either-or cases the accused can elect to be tried before the crown court instead of the magistrates' court.

New Scotland Yard

The headquarters since 1966 of the London Metropolitan Police Force in Westminster, London, which contains the central departments of the force, and from where most of the policing of the capital is co-ordinated.

Official Secrets Act

The law, continuously updated since 1911 with the latest Act in 1989, which prohibits harmful actions against the security interests of the state, such as the publishing or communication of secret information. If found guilty of such a criminal offence, the person/organisation may be imprisoned and/or fined. Individuals employed in sensitive government establishments and in security-based jobs are obliged to sign and obey the Official Secrets Act.

Penal system

Britain's criminal punishment system comprises the custodial (imprisonment) and the non-custodial (without imprisonment). Non-custodial sentences from a court are mostly fines (monetary punishment), probation, community service and absolute discharge (freedom with no conditions). Custodial sentences from a court mean imprisonment for a variable period of time up to life (or 21 years). Prisoners with medium-term sentences may be released on parole, and prisoners serving life sentences may be released on licence, in both cases after serving part of their sentences.

Police

Britain has no one national police force, but 52 regional forces covering the country. London is catered for by the Metropolitan Police Force (with its headquarters at New Scotland Yard) and the City (of London) force. The British police are not armed, except on special occasions, and they perform a number of duties in the community such as investigating crimes, arresting people, protecting citizens and property, and controlling traffic. The police forces are under the operational control of a chief constable for the region and under the supervision of a civilian police committee of the local government authority. Any complaints against them may be made to the Police Complaints Authority. Their powers are controlled by codes of conduct and practice, and their professional interests are looked after by the Police Federation.

Probate

The legal procedure of proving in the High Court of England and Wales that a will is genuine, and that property and money left in the will can safely be distributed to the beneficiaries. Probate also occurs when no will has been made (intestacy), but the estate still has to be determined or settled.

Probation

An element of the state penal system in which a court orders that a convicted criminal be placed under the supervision of a probation officer from the government probation service for a period of up to three years instead of going to prison. The intention of this non-custodial sentence is to re-establish the offender in society. He or she is on probation, which means that if further offences are committed the person will receive a custodial sentence.

Prosecution

The official representative of the state in criminal matters. The Crown Prosecution Service (CPS) in England and Wales conducts cases against accused persons in the name of the Crown or state.

Pupillage

The one-year period of practical training with an established barrister that a student barrister has to complete after passing professional examinations and before being able to practise as a fully qualified barrister.

Re-examination

A process in a court of law whereby a witness can be recalled to the witness stand to be examined or questioned again on evidence which has already been covered.

Remand

The legal term for a court's decision either to commit a defendant to custody, or to release a defendant on bail, until the next stage in criminal proceedings. A defendant may be remanded in custody (in a prison, a police station or remand centre) for a period of eight days. Further remands, however, can be made, so that the person, still legally assumed to be innocent, may be held for many months.

Remand centre

Young defendants up to 17, awaiting trial and not granted bail, are committed to one of seven remand centres in Britain where they are detained until further proceedings are taken in their cases, or while awaiting trial.

Robbery

Robbery is theft (the unlawful taking away of another person's property) accompanied by force or the threat of force.

Solicitor

One of the two types of qualified lawyer (with barristers) in England and Wales who advises clients on a range of legal matters, such as conveyancing, crime business, divorce and probate, and who can appear for the client in the magistrates' court and the county court (where they are often known as solicitor-advocates). He or she is normally a member of the Law Society, the solicitors' professional association.

Special Branch (SB)

The specialist section of a regional police force that operates primarily in the areas of political security and intelligence-gathering in Britain, but also has national protection duties for public figures.

Special constable

A volunteer, male or female, who provides part-time and unpaid police duties under the supervision of the regular police in his or her local area.

Stipendiary magistrate

A legally qualified professional lawyer (barrister or solicitor) who sits alone as a judge in some magistrates' courts in the large cities of England and Wales to decide mainly criminal cases. He or she is professional element in an otherwise amateur magistrates' system of summary law.

Subjudice

The legal rule which stipulates that the media and individuals must not make any comments on a court case which is proceeding, except to describe the facts of those proceedings. Any person or organisation infringing the rule may be punished by the judge for contempt of court (a fine or imprisonment).

Summary offence

A criminal offence of a less serious nature than an indictable offence, which is triable only in a magistrates' court without a jury.

Summons

An official legal order, frequently delivered by post or sometimes personally by a court bailiff, to an individual requiring his or her attendance at a court of law, to answer a criminal charge or to give evidence in a court case.

Suspended sentence

A court sentence on a convicted criminal may be suspended (be inoperative) for a given period, provided the person does not reoffend within that time. Usually given to people who are guilty of relatively minor crimes, or for whom there are special extenuating circumstances.

Theft

The legal term to describe the criminal act when an individual takes property belonging to another person with the intention of permanently depriving the other of it.

Verdict

The decision by magistrates or a jury at the end of a criminal trial, in which they find a person guilty or not guilty.

Warder

An old term (sometimes still used) to describe prison officers who are in charge of prisoners within a prison.

Warrant

The official document issued by a magistrate which empowers the police in some cases to search a property or arrest a person. It can be a general term to denote the authority to do something, usually of an official nature, and may also be used by banks as payment in financial deals.

Will

A legal document expressing the wishes of a person over 18 (the testator) as to the disposition of his or her property after death. In most cases the will must be in writing and witnessed by two people. Distribution of the property of a person dying intestate (without a valid will) is determined by the statute.

Witness

A person who is called to give evidence on behalf of the defence or the prosecution in a criminal court of law, or by either side in a civil case.

Writ

A legal document in civil law actions requiring the person to whom it is addressed either to do some specific act, or to stop doing something. It may be served by post or by a bailiff on a person or company direct.

Young offenders

A general term which can include children from the age of 10 but which usually applies to young people between the ages of 15 and 20 who are convicted of criminal offences and may be given custodial sentences in a young offenders' institution in England and Wales.

Навчальне видання

CRIME AND PUNISHMENT

Навчальний посібник з усної практики
для студентів 4 курсу
факультету «Референт-перекладач», які навчаються
за спеціальністю 035 «Філологія»

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В авторській редакції
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Підписано до друку 25.05.2017. Формат 60×84/16.
Папір офсетний. Гарнітура «Таймс».
Ум. друк. арк. 4,88. Обл.-вид. арк. 4,01.
Тираж 5 пр.

Видавництво
Народної української академії
Свідоцтво № 1153 від 16.12.2002.

Надруковано у видавництві
Народної української академії

Україна, 61000, Харків, МСП, вул. Лермонтовська, 27.